

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 478
89TH GENERAL ASSEMBLY

Reported from the Committee on Correctional & State Institutions, April 30, 1998, with recommendation that the House Committee Substitute for Senate Substitute for Senate Bill No. 478 Do Pass.
ANNE C. WALKER, Chief Clerk
L2491.04C

AN ACT

To repeal sections 217.710 and 571.030, RSMo Supp. 1997, relating to the department of corrections, and to enact in lieu thereof four 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Section A. Sections 217.710 and 571.030, RSMo Supp. 1997, are repealed and four new sections enacted in lieu thereof, to be known as sections 217.710, 571.030, 1 and 2, to read as follows:

217.710. 1. Probation and parole officers, supervisors and members of the board of probation and parole, who [satisfy] **are certified pursuant to** the requirements of subsection 2 of this section shall have the authority to carry **their** firearms [to carry out the provisions of sections 217.650 to 217.810 as authorized by] **at all times. The department of corrections shall promulgate** policies and operating regulations [of the department] **which govern the use of firearms by probation and parole officers, supervisors and members of the board when carrying out the provisions of sections 217.650 to 217.810. Mere possession of a firearm shall not constitute an employment activity for the purpose of calculating compensatory time or overtime.**

2. The department shall determine the content of the required firearms safety training and provide firearms certification and recertification training for probation and parole officers, supervisors and members of the board of probation and parole. A minimum of sixteen hours of firearms safety training shall be required. In no event shall firearms certification or recertification training for probation and parole officers and supervisors exceed the training required for officers of the state highway patrol.

3. The department shall determine the type of firearm to be carried by the officers, supervisors and members of the board of probation and parole.

4. Any officer, supervisor or member of the board of probation and parole that chooses to carry a firearm in the performance of such officer's, supervisor's or member's duties shall purchase the firearm and holster.

5. The department shall furnish such ammunition as is necessary for the performance of

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

the officer's, supervisor's and member's duties.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after the effective date of this act. All rulemaking authority delegated prior to the effective date of this act is of no force and effect and repealed as of the effective date of this act, however nothing in this act shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to the effective date of this act. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to the effective date of this act.

571.030. 1. A person commits the crime of unlawful use of weapons if he knowingly:

(1) Carries concealed upon or about his person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or

(2) Sets a spring gun; or

(3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in section 302.010, RSMo, or any building or structure used for the assembling of people; or

(4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or

(5) Possesses or discharges a firearm or projectile weapon while intoxicated; or

(6) Discharges a firearm within one hundred yards of any occupied school house, courthouse, or church building; or

(7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or

(8) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any school, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof, or into any public assemblage of persons met for any lawful purpose; or

(9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section 301.010, RSMo, while within any city, town, or village, and discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense.

2. Subdivisions (1), (3), (4), (6), (7), (8) and (9) of subsection 1 of this section shall not apply to or affect any of the following:

(1) All state, county and municipal law enforcement officers possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other

institutions for the detention of persons accused or convicted of crime;

(3) Members of the armed forces or national guard while performing their official duty;

(4) Those persons vested by article V, section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;

(5) Any person whose bona fide duty is to execute process, civil or criminal;

(6) Any federal probation officer;

(7) Any state probation or parole officer, including supervisors and members of the board of probation and parole[, authorized to carry a firearm pursuant to section 217.710, RSMo]; and

(8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under section 84.340, RSMo.

3. Subdivisions (1), (5) and (8) of subsection 1 of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection 1 of this section does not apply when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his dwelling unit or upon business premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state.

4. Unlawful use of weapons is a class D felony unless committed under subdivision (5), (6), (7) or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or subdivision (9) of subsection 1 of this section, in which case it is a class B felony, except that if the violation of subdivision (9) of subsection 1 of this section results in injury or death to another person, it is a class A felony.

5. Violations of subdivision (9) of subsection 1 of this section shall be punished as follows:

(1) For the first violation a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony;

(2) For any violation by a prior offender as defined in section 558.016, RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation or conditional release for a term of ten years;

(3) For any violation by a persistent offender as defined in section 558.016, RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation, or conditional release;

(4) For any violation which results in injury or death to another person, a person shall be sentenced to an authorized disposition for a class A felony.

6. Any person knowingly aiding or abetting any other person in the violation of subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that prescribed by this section for violations by other persons.

Section 1. 1. The governor is hereby authorized and empowered to sell, transfer, grant and convey all interest in fee simple absolute in property owned by the state in Cole County which is part of the correctional facility known as the Church Farm to any person at a public offering as provided in subsection 2 of this section. The property hereby authorized to be conveyed by the governor shall be more particularly described by a survey. Such survey shall be authorized by the division of design and construction of the office of administration pursuant to this section.

2. The division of design and construction of the office of administration shall authorize an independent appraisal or appraisals. The commissioner of administration shall set the terms and conditions for the public sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required; the time, place and terms of the sale; whether or not a minimum bid shall be required; and whether or not to contract for the services of a public auctioneer to market the property. The auctioneer, if any, may receive the usual and customary fee. All costs and fees, directly related to such sale, shall be paid from the proceeds of such sale. All proceeds received for such sale, in excess of the costs, shall be used to assist in the funding of the construction or repair or maintenance of state correctional facilities.

3. The attorney general shall approve the form of the instrument of conveyance.

Section 2. 1. The governor is hereby authorized and empowered to give, grant, bargain, convey and confirm an easement to Cole County over and across a certain strip of land in Cole County, Missouri, which is used by the department of corrections for the purpose of establishing and maintaining a public road. The land is more particularly described as follows:

A 60 foot-wide strip of land across part of the South Half of Section 19 and the North Half of Section 30, Township 45 North, Range 12 West, and the South Half of Sections 23 and 24, and the North Half of Sections 25 and 26, Township 45 North, Range 13 West, Cole County, Missouri; lying 30 feet each side of and adjacent to the following described centerline: From the northeast corner of said Section 26; thence $S70^{\circ}18'26''W$, 4079.03 feet to the centerline of Missouri State Route "T" and the point of beginning for this centerline description; thence northeasterly, on a curve to the left having a radius of 200.389 feet, an arc length of 83.181, the chord being $N62^{\circ}23'30''E$, 82.585 feet; thence $N50^{\circ}30'00''E$, 86.973 feet; thence northeasterly, on a curve to the left having a radius of 1500.00 feet, an arc length of 91.63 feet, the chord being $N48^{\circ}45'00''E$, 91.616 feet; thence $N47^{\circ}00'00''E$, 312.358 feet; thence northeasterly, on a curve to the left having a radius of 1100.00 feet, an arc length of 192.626 feet, the chord being $N41^{\circ}59'00''E$, 192.38 feet; thence $N36^{\circ}58'00''E$, 516.059 feet; thence northeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 181.66 feet, the chord being $N57^{\circ}47'00''E$, 177.689 feet; thence $N78^{\circ}36'00''E$, 287.442 feet; thence $N77^{\circ}24'00''E$, 317.086 feet; thence easterly, on a curve to the right having a radius of 250.00 feet, an arc length of 215.839 feet, the chord being $S77^{\circ}52'00''E$, 209.198 feet; thence $S53^{\circ}08'00''E$, 834.664 feet; thence southeasterly, on a curve to the right having a radius of 2000.00 feet, an arc length of 136.717 feet, the chord being $S51^{\circ}10'30''E$, 136.691 feet; thence $S49^{\circ}13'00''E$, 68.197 feet; thence southeasterly, on a curve to the left having a radius of 700.00 feet, an arc length of 122.173 feet, the chord being $S54^{\circ}13'00''E$, 122.018 feet; thence $S59^{\circ}13'00''E$, 352.725 feet; thence easterly, on a curve to the left having a radius of 400.00 feet, an arc length of 127.874 feet, the chord being $S68^{\circ}22'30''E$, 127.331 feet; thence $S77^{\circ}32'00''E$, 360.048 feet; thence easterly, on a curve to the left having a radius of 480.00 feet, an arc length of 212.511 feet, the chord being $N89^{\circ}47'00''E$, 210.78 feet; thence northeasterly, on a curve to the left having a radius of 527.00 feet, an arc length of 213.238 feet, the chord being $N65^{\circ}30'30''E$, 211.787 feet; thence $N53^{\circ}55'00''E$, 76.552 feet; thence northeasterly, on a curve to the left having a radius of 250.00 feet, an arc length of 117.81 feet, the cord being $N40^{\circ}25'00''E$, 116.723 feet; thence $N26^{\circ}55'00''E$, 632.281 feet; thence northeasterly, on a curve to the left having a radius of 2640.00 feet, an arc length of 289.515 feet, the chord being $N23^{\circ}46'30''E$, 289.37 feet; thence

N20°38'00"E, 178.286 feet; thence northeasterly, on a curve to the right having a radius of 260.00 feet, an arc length of 282.179 feet, the chord being N51°43'30"E, 268.533 feet; thence N82°49'00"E, 321.536 feet; thence northeasterly, on a curve to the left having a radius of 280.00 feet, an arc length of 247.685 feet, the chord being N57°28'30"E, 239.689 feet; thence N32°08'00"E, 197.124 feet; thence northeasterly, on a curve to the right having a radius of 880.00 feet, an arc length of 393.705 feet, the chord being N44°57'00"E, 390.425 feet; thence N57°46'00"E, 271.67 feet; thence N60°22'00"E, 152.267 feet; thence easterly, on a curve to the right having a radius of 300.00 feet, an arc length of 197.135 feet, the chord being N79°11'30"E, 193.607 feet; thence S81°59'00"E, 305.488 feet; thence easterly, on a curve to the right having a radius of 670.00 feet, an arc length of 289.029 feet, the chord being S69°37'00"E, 286.794 feet; thence S57°16'00"E, 579.552 feet; thence easterly, on a curve to the left having a radius of 380.00 feet, an arc length of 242.63 feet, the chord being S75°33'30"E, 238.529 feet; thence N86°09'00"E, 256.043 feet; thence easterly, on a curve to the left having a radius of 2500.00 feet, an arc length of 128.718 feet, the chord being N84°40'30"E, 128.704 feet; thence N83°12'00"E, 305.712 feet; thence easterly, on a curve to the left having a radius of 2000.00 feet, an arc length of 121.591 feet, the chord being N81°27'30"E, 121.573 feet; thence N79°43'00"E, 138.046 feet; thence easterly, on a curve to the left having a radius of 450.00 feet, an arc length of 104.589 feet, the chord being N73°03'30"E, 104.354 feet; thence N66°24'00"E, 178.061 feet; thence easterly, on a curve to the right having a radius of 540.00 feet, an arc length of 259.967 feet, the chord being N80°11'30"E, 257.464 feet; thence S86°01'00"E, 131.584 feet; thence easterly, on a curve to the left having a radius of 555.00 feet, an arc length of 197.122 feet, the chord being N83°48'30"E, 196.087 feet; thence N73°38'00"E, 275.285 feet; thence easterly, on a curve to the left having a radius of 1500.00 feet, an arc length of 229.509 feet, the chord being N69°15'00"E, 229.285 feet; thence N64°52'00"E, 110.578 feet; thence easterly, on a curve to the right having a radius of 900.00 feet, an arc length of 355.00 feet, the chord being N76°10'00"E, 352.702 feet; thence easterly, on a curve to the left having a radius of 894.2521 feet, an arc length of 199.1725 feet, the chord being N81°05'10"E, 198.76 feet; thence N74°42'20"E, 47.5321 feet; thence northeasterly, on a curve to the left having a radius of 457.4641 feet, an arc length of 141.3648 feet, the chord being N65°51'10"E, 140.80 feet; thence northeasterly, on a curve to the left having a radius of 940.00 feet, an arc length of 260.857 feet, the chord being N49°03'00"E, 260.021 feet; thence N41°06'00"E, 163.764 feet; thence northeasterly, on a curve to the right having a radius of 600.00 feet, an arc length of 119.904 feet, the chord being N46°49'30"E, 119.705 feet; thence N52°33'00"E, 333.607 feet; thence northeasterly, on a curve to the left having a radius of 280.00 feet, an arc length of 120.137 feet, the chord being N40°15'30"E, 119.217 feet; thence N27°58'00"E, 332.647 feet; thence northeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 265.508 feet, the chord being N58°23'30"E, 253.205 feet; thence N88°49'00"E, 144.356 feet; thence easterly, on a curve to the right having a radius of 250.00 feet, an arc length of 88.43 feet, the chord being S81°03'00"E, 87.97 feet; thence S70°55'00"E, 95.001 feet; thence southeasterly, on a curve to the right having a radius of 900.00 feet, an arc length of 157.603 feet, the chord being S65°54'00"E, 157.402 feet; thence S60°53'00"E, 134.796 feet; thence S58°12'00"E, 282.136 feet; thence southeasterly, on a curve to the left having a radius of 2000.00 feet, an arc length of 172.788 feet, the chord being S60°40'30"E, 172.734 feet; thence S63°09'00"E, 79.593 feet; thence southeasterly, on a curve to the right having a radius of 370.00 feet, an arc length of 149.173 feet, the chord being S51°36'00"E, 148.165 feet; thence S40°03'00"E, 201.554 feet; thence southeasterly, on a curve to the left having a radius of 400.00

feet, an arc length of 279.485 feet, the chord being S60°04'00"E, 273.835 feet; thence S80°05'00"E, 42.804 feet; thence southeasterly on a curve to the right having a radius of 195.973 feet, an arc length of 105.69 feet, the chord being S64°38'00"E, 104.414 feet to the point of termination.

3. The attorney general shall approve the form of the instrument of conveyance.

Unofficial

Bill

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