

FIRST REGULAR SESSION

HOUSE BILL NO. 809

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CARNAHAN, DOLAN, KELLY (36), OSTMANN,
BRITT (Co-sponsors), DEMPSEY, PORTWOOD AND LEVIN.

Read 1st time February 15, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1902L.011

AN ACT

To repeal section 85.011, RSMo 2000, relating to discipline of law enforcement officers, and to enact in lieu thereof five new sections relating to the same subject.

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

Section A. Section 85.011, RSMo 2000, is repealed and five new sections enacted in lieu
2 thereof, to be known as sections 590.505, 590.508, 590.511, 590.514 and 590.517, to read as
3 follows:

2 [85.011. Any law enforcement officer, other than an elected sheriff or deputy,
3 who possesses the duty and power of arrest for violations of the criminal laws of this
4 state or for violations of ordinances of counties or municipalities of this state, who
5 is regularly employed for more than thirty hours per week, and who is employed by
6 a law enforcement agency of this state or political subdivision of this state which
7 employs more than fifteen law enforcement officers, shall be given upon written
8 request a meeting within forty-eight hours of a dismissal, disciplinary demotion or
9 suspension that results in a reduction or withholding of salary or compensatory time.
10 The meeting shall be held before any individual or board as designated by the
11 governing body. At any such meeting, the employing law enforcement agency shall
12 at a minimum provide a brief statement, which may be oral, of the reason of the
13 discharge, disciplinary demotion or suspension, and permit the law enforcement
14 officer the opportunity to respond. The results from such meeting shall be reduced
15 to writing. Any law enforcement agency that has substantially similar or greater
16 procedures shall be deemed to be in compliance with this section. This section shall
17 not apply to an officer serving in a probationary period or to the highest ranking
 officer of any law enforcement agency. Any law enforcement officer employed by

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

the state shall not be subject to the provisions of this section.]

590.505. As used in sections 590.505 to 590.517, the following terms mean:

2 **(1) "Employing law enforcement agency" or "law enforcement agency", this state**
3 **or any political subdivision in this state that employs law enforcement officers certified as**
4 **required by this chapter;**

5 **(2) "Hearing", any meeting conducted by a hearing grievance committee for the**
6 **purpose of taking or adducing testimony or receiving other evidence in order to determine**
7 **the facts regarding an occurrence which may lead to punitive action against a law**
8 **enforcement officer;**

9 **(3) "Hearing or grievance committee", the committee as established by the written**
10 **guidelines of the department's policy and procedures manual, which may include already**
11 **established personnel boards;**

12 **(4) "Law enforcement officer" or "officer", any person who is regularly employed**
13 **by an employing law enforcement agency and certified pursuant to this chapter, who**
14 **possesses the duty and power of arrest for violation of the criminal laws of this state or for**
15 **violation of orders or ordinances of this state or any political subdivision of this state. This**
16 **term shall not include an officer serving in probationary status upon initial employment,**
17 **highway patrol members, water patrol members, conservation agents, state park rangers,**
18 **or an elected sheriff, elected marshal, appointed chief of police or any chief deputy, deputy**
19 **or undersheriff of a sheriff's department;**

20 **(5) "Punitive action", any disciplinary action, except a written or oral reprimand,**
21 **taken against a law enforcement officer by the employing law enforcement agency,**
22 **including but not limited to dismissal, demotion, suspension, reduction in salary,**
23 **withholding of salary, or a disciplinary transfer.**

590.508. Any law enforcement officer who is the subject of punitive action shall at
2 **a minimum be furnished with a written statement and citations from the employing law**
3 **enforcement agency's written and distributed policies and procedures for the reason of the**
4 **punitive action. Upon receipt of the written reasons for the punitive action the law**
5 **enforcement officer may, within five working days, request a hearing in writing. Such a**
6 **hearing shall take place before any individual or board to be defined by the published and**
7 **distributed ordinance, administrative rule or regulation or written and distributed**
8 **employing law enforcement agency policies and procedures. The employing law**
9 **enforcement agency shall schedule the hearing no sooner than five days and no later than**
10 **ten days after the written request was received from the law enforcement officer. At such**
11 **hearings, all voting will be conducted by secret ballots. The results of such hearing shall**
12 **be reduced to writing and distributed to all parties involved. Any law enforcement agency**

13 that has a published and distributed ordinance, administrative rule or regulation or
14 written and distributed policies and procedures, which provides an officer who is subject
15 to punitive action, written notification and citation of the reason for the punitive action and
16 allows the officer to request and have a hearing and the results of such hearing be reduced
17 to writing shall be deemed to be in compliance with this section.

590.511. 1. When any law enforcement officer is under investigation and subjected
2 to interrogation by such officer's commanding officer, or any other member of the
3 employing law enforcement agency, which could lead to punitive action, such interrogation
4 shall be conducted under the following conditions:

5 (1) The interrogation shall be conducted at a reasonable hour, preferably at a time
6 when the law enforcement officer is on duty, or during such officer's normal working
7 hours, unless the seriousness of the investigation requires otherwise. If such interrogation
8 does occur during off-duty time of the law enforcement officer being interrogated at any
9 place other than such officer's residence, such law enforcement officer shall be
10 compensated for such off-duty time in accordance with regular department procedure. If
11 the interrogation of the law enforcement officer occurs during such officer's regular duty
12 hours, such officer shall not be released from employment for any work missed during the
13 interrogation;

14 (2) Any law enforcement officer under investigation shall be informed of the nature
15 of the investigation prior to any interrogation. Such officer shall also be informed of the
16 name, rank and command of the officer in charge of the interrogation, the interrogating
17 officers, and all other persons to be present during the interrogation. No more than three
18 interrogators at one time shall question the law enforcement officer under investigation;

19 (3) No law enforcement officer under interrogation shall be subjected to offensive
20 language or threatened with punitive action. No promise of reward shall be made as an
21 inducement to answering questions;

22 (4) The complete interrogation of any law enforcement officer shall be recorded,
23 either written, taped or transcribed. Upon request of the law enforcement officer under
24 investigation a copy of the record shall be made available to him not less than ten days
25 prior to any hearing;

26 (5) Upon the filing of a formal written statement of charges or whenever an
27 interrogation focuses on matters which are likely to result in punitive action against any
28 law enforcement officer, that officer shall have the right to be represented by counsel who
29 may be present at all times during such interrogation.

30 2. Nothing in this section shall prohibit the immediate temporary suspension,
31 pending an investigation, from duty of any law enforcement officer who reports for duty

32 under the influence of alcohol or controlled substances, or under the influence of an
33 apparent mental or emotional disorder.

34 3. The provisions of this section shall not be applicable in the event any criminal
35 charges have been filed against any law enforcement officer.

590.514. 1. If the investigation or interrogation of a law enforcement officer results
2 in the recommendation of some punitive action, before taking such action the law
3 enforcement agency shall give notice to the law enforcement officer that the officer is
4 entitled to a hearing on the issues by a hearing or grievance committee.

5 2. Upon receipt of a written statement and citation from the employing law
6 enforcement agency policy and procedure explaining the reason for the punitive action, the
7 law enforcement officer may within five working days request a hearing before the
8 established hearing or grievance committee. Both the law enforcement officer and the law
9 enforcement agency shall be given ample opportunity to present evidence and argument
10 with respect to the issues involved.

11 3. With respect to the subject of any investigation or hearing conducted pursuant
12 to this section, the hearing or grievance committee may subpoena witnesses and administer
13 oaths or affirmations and examine any individual under oath, and may require and compel
14 the production of records, books, papers, contracts, and other documents.

15 4. Any decision, order or action taken as a result of the hearing shall be in writing
16 and shall be accompanied by findings of fact. The findings shall consist of a concise
17 statement upon each element in the case. A copy of the decision or order and
18 accompanying findings and conclusions, along with written recommendations for action,
19 shall be delivered or mailed by certified mail promptly to the law enforcement officer. The
20 hearing or grievance committee may either agree with or disagree with the
21 recommendation of the law enforcement agency, but shall in no case increase the punitive
22 action recommended.

590.517. Any similar or like procedures to those provided for in sections 590.505
2 to 590.517 shall remain in effect in the law enforcement agencies that have established such
3 procedures.