

SECOND REGULAR SESSION

HOUSE BILL NO. 1751

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MUNZLINGER (Sponsor), PARSON, SCHAD, JONES, MOORE, NIEVES, COOPER (120), DENISON, HOBBS, CHINN, DARROUGH, MEADOWS, DOUGHERTY, DUSENBERG, SELF, WHORTON, RUESTMAN AND BEHNEN (Co-sponsors).

Read 1st time February 13, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5123L.01I

AN ACT

To repeal sections 476.083, 571.080, and 571.090, RSMo, and to enact in lieu thereof three new sections relating to the criminal justice system, with penalty provisions.

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

Section A. Sections 476.083, 571.080, and 571.090, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 476.083, 571.080, and 571.090, to read
3 as follows:

476.083. 1. In addition to any appointments made pursuant to section 485.010, RSMo,
2 the presiding judge of each circuit containing one or more facilities operated by the department
3 of corrections with an average total inmate population in all such facilities in the circuit over the
4 previous two years of more than two thousand five hundred inmates may appoint a circuit court
5 marshal to aid the presiding judge in the administration of the judicial business of the circuit by
6 overseeing the physical security of the courthouse, serving court-generated papers and orders,
7 and assisting the judges of the circuit as the presiding judge determines appropriate. Such circuit
8 court marshal appointed pursuant to the provisions of this section shall serve at the pleasure of
9 the presiding judge. The circuit court marshal authorized by this section is in addition to staff
10 support from the circuit clerks, deputy circuit clerks, division clerks, municipal clerks, and any
11 other staff personnel which may otherwise be provided by law.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 2. The salary of a circuit court marshal shall be established by the presiding judge of the
13 circuit within funds made available for that purpose, but such salary shall not exceed ninety
14 percent of the salary of the highest paid sheriff serving a county wholly or partially within that
15 circuit. Personnel authorized by this section shall be paid from state funds or federal grant
16 moneys which are available for that purpose and not from county funds.

17 3. Any person appointed as a circuit court marshal pursuant to this section shall have at
18 least five years' prior experience as a law enforcement officer. In addition, any such person shall
19 within one year after appointment, or as soon as practicable, attend a court security school or
20 training program operated by the United States Marshal Service. In addition to all other powers
21 and duties prescribed in this section, a circuit court marshal may:

22 (1) Serve process;

23 (2) Wear a concealable firearm[, pursuant to a permit granted under section 571.090,
24 RSMo]; and

25 (3) Make an arrest based upon local court rules and state law, and as directed by the
26 presiding judge of the circuit.

 571.080. 1. A person commits the crime of transfer of a concealable firearm without a
2 permit if:

3 (1) **[He] Such person** buys[, leases, borrows, exchanges or otherwise receives] any
4 concealable firearm, unless he **or she** first obtains and delivers to the person delivering the
5 firearm a valid permit authorizing the [acquisition] **purchase** of the firearm; or

6 (2) **[He] Such person** sells[, leases, loans, exchanges, gives away or otherwise delivers]
7 any concealable firearm, unless he **or she** first demands and receives from the person receiving
8 the firearm a valid permit authorizing such [acquisition] **purchase** of the firearm[.]; **or**

9 **(3) Such person is less than twenty-one years of age and buys, leases, borrows,**
10 **exchanges or otherwise receives any concealable firearm.**

11 2. A permit to [acquire] **purchase** a concealable firearm shall only be valid for thirty
12 days after the issuance thereof.

13 3. Subsection 1 of this section shall not apply to the [acquisition by] **purchase** or transfer
14 of concealable firearms among manufacturers, wholesalers or retailers of firearms for purposes
15 of commerce; nor shall it apply to antique firearms or replicas thereof; nor shall it apply to curio
16 or relic firearms as defined in section 571.010[.]; **nor shall it apply to the nonpurchase**
17 **transfer of concealable firearms between two or more parties where the transfer is**
18 **otherwise legal under federal law.**

19 **4. Nothing in this section shall apply to the sale or transfer of concealable weapons**
20 **to any person holding a permit to carry concealed weapons issued under the authority of**
21 **section 571.101.**

22 **5. Nothing in this section shall apply to the nonpurchase transfer of concealable**
23 **weapons to any person less than eighteen years of age who may lawfully possess and use**
24 **such weapons subject to the conditions of 18 U.S.C.A. Section 922(x).**

25 **6. Nothing in this section shall apply to the nonpurchase transfer of concealable**
26 **weapons to any person eighteen years of age or older, but who is less than twenty-one years**
27 **of age, provided that the individual obtains prior written permission to possess the**
28 **concealed weapon from a person twenty-one years of age or older who is legally entitled**
29 **to possess the weapon.**

30 [4.] **7. Transfer of concealable firearms without a permit is [a class A misdemeanor] an**
31 **infraction punishable by a fine not to exceed one hundred dollars.**

 571.090. 1. A permit to [acquire] **purchase** a concealable firearm shall be issued by the
2 sheriff of the county in which the applicant resides, if all of the statements in the application are
3 true, and the applicant:

4 (1) Is at least twenty-one years of age, a citizen of the United States and has resided in
5 this state for at least six months;

6 (2) Has not pled guilty to or been convicted of a crime punishable by imprisonment for
7 a term exceeding one year under the laws of any state or of the United States other than a crime
8 classified as a misdemeanor under the laws of any state and punishable by a term of
9 imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm
10 silencer or gas gun;

11 (3) Is not a fugitive from justice or currently charged in an information or indictment
12 with the commission of a crime punishable by imprisonment for a term exceeding one year under
13 the laws of any state or of the United States other than a crime classified as a misdemeanor under
14 the laws of any state and punishable by a term of imprisonment of two years or less that does not
15 involve an explosive weapon, firearm, firearm silencer or gas gun;

16 (4) Has not been discharged under dishonorable conditions from the United States armed
17 forces;

18 (5) Is not publicly known to be habitually in an intoxicated or drugged condition; and

19 (6) Is not currently adjudged mentally incompetent and has not been committed to a
20 mental health facility, as defined in section 632.005, RSMo, or a similar institution located in
21 another state.

22 2. Applications shall be made to the sheriff of the county in which the applicant resides.
23 An application shall be filed in writing, signed and verified by the applicant, and shall state only
24 the following: the name, Social Security number, occupation, age, height, color of eyes and hair,
25 residence and business addresses of the applicant, the reason for desiring the permit, and whether
26 the applicant complies with each of the requirements specified in subsection 1 of this section.

27 3. Before a permit is issued, the sheriff shall make only such inquiries as he deems
28 necessary into the accuracy of the statements made in the application. The sheriff may require
29 that the applicant display a Missouri operator's license or other suitable identification. The
30 sheriff shall issue the permit within a period not to exceed seven days after submission of the
31 properly completed application excluding Saturdays, Sundays or legal holidays.

32

33 The sheriff may refuse to issue the permit if he determines that any of the requirements specified
34 in subsection 1 of this section have not been met, or if he has reason to believe that the applicant
35 has rendered a false statement regarding any of the provisions in subsection 1 of this section. If
36 the application is approved, the sheriff shall issue a permit and a copy thereof to the applicant.

37 4. The permit shall recite the date of issuance, that it is invalid after thirty days, the name
38 and address of the person to whom granted, the nature of the transaction, and a physical
39 description of the applicant. The applicant shall sign the permit in the presence of the sheriff.

40 5. If the permit is used, the person who receives the permit from the applicant shall
41 return it to the sheriff within thirty days after its expiration, with a notation thereon showing the
42 date and manner of disposition of the firearm and a description of the firearm including the
43 make, model and serial number. The sheriff shall keep a record of all applications for permits,
44 his action thereon, and shall preserve all returned permits.

45 6. No person shall in any manner transfer, alter or change a permit, or make a false
46 notation thereon, or obtain a permit upon any false representation, or use, or attempt to use a
47 permit issued to another.

48 7. For the processing of the permit, the sheriff in each county and the city of St. Louis
49 shall charge a fee not to exceed ten dollars which shall be paid into the treasury of the county or
50 city to the credit of the general revenue fund.

51 8. In any case when the sheriff refuses to issue or to act on an application for a permit,
52 such refusal shall be in writing setting forth the reasons for such refusal. Such written refusal
53 shall explain the denied applicant's right to appeal and, with a copy of the completed application,
54 shall be given to the denied applicant within a period not to exceed seven days after submission
55 of the properly completed application excluding Saturdays, Sundays or legal holidays. The
56 denied applicant shall have the right to appeal the denial within ten days of receiving written
57 notice of the denial. Such appeals shall be heard in small claims court as defined in section
58 482.300, RSMo, and the provisions of sections 482.300, 482.310 and 482.335, RSMo, shall
59 apply to such appeals.

60 9. A denial of or refusal to act on an application for permit may be appealed by filing
61 with the clerk of the small claims court a copy of the sheriff's written refusal and a form

62 substantially similar to the appeal form provided in this section. Appeal forms shall be provided
63 by the clerk of the small claims court free of charge to any person:

64 SMALL CLAIMS COURT

65 In the Circuit Court of..... Missouri
66 Case Number

67, Denied Applicant)

68)

69 vs.)

70)

71, Sheriff)

72 Return Date

73

74

75 DENIAL OF PERMIT APPEAL

76 The denied applicant states that his properly completed application for a permit to acquire
77 a firearm with a barrel of less than sixteen inches was denied by the sheriff of County,
78 Missouri, without just cause. The denied applicant affirms that all of the statements in the
79 application are true.

80

81 Denied Applicant

82 10. The notice of appeal in a denial of permit appeal shall be made to the sheriff in a
83 manner and form determined by the small claims court judge.

84 11. If at the hearing the person shows he is entitled to the requested permit, the court
85 shall issue an appropriate order to cause the issuance of the permit. Costs shall not be assessed
86 against the sheriff in any case.

87 12. Any person aggrieved by any final judgment rendered by a small claims court in a
88 denial of permit appeal may have a trial de novo as provided in sections 512.180 to 512.320,
89 RSMo.

90 13. Violation of any provision of this section is a class A misdemeanor.

