

HCS HB 499 -- LAW ENFORCEMENT OFFICER DISCIPLINARY ACTIONS

SPONSOR: Schroer

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Crime Prevention by a vote of 7 to 1, with 2 voting present. Vote "Do Pass" by the Standing Committee on Rules-Administrative Oversight by a vote of 12 to 0.

The following is a summary of the House Committee Substitute for HB 499.

This bill establishes the "Law Enforcement Officers' Bill of Rights".

The bill defines a "law enforcement officer" as any sworn peace officer, except the highest ranking officer in the law enforcement agency, who is employed by any unit of the state or any county, charter county, city, charter city, municipality, district, college, university, or any other political subdivision or by the Board of Police Commissioners, who possesses the power to arrest for violations of the criminal code.

The bill specifies certain rights a law enforcement officer has when he or she is the subject of an administrative investigation or is being questioned or interviewed. These rights include being informed of the violation, requiring the complaint to be supported by a sworn affidavit, and allowing the officer to have an attorney or any duly authorized representative.

The bill provides that any law enforcement officer who is suspended without pay, demoted, terminated, transferred, or placed on a status resulting in economic loss is entitled to a full due process hearing. The hearing requirements are specified in the bill.

The bill also establishes the "Police Use of Force Transparency Act of 2021", which provides that all law enforcement agencies must, at least annually, collect and report local data to the National Use of Force Data Collection through the Law Enforcement Enterprise portal administered by the Federal Bureau of Investigation on use-of-force incidents involving peace officers. Law enforcement agencies must also report such data to the Department of Public Safety. Information collected and reported must not include personally identifying information of individual officers. By June 30, 2022, the Department must develop standards and procedures governing the collecting and reporting of the data. The Department must publish the data reported by law enforcement agencies, and the data will be considered a public record, consistent with state law. The Department must analyze trends and disparities in the data and

report the findings and make the report available to the public no later than January 1, 2025.

The provisions of this bill have a delayed effective date of January 1, 2022.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPOSERS: Supporters say that we should all agree that every Missourian should be entitled to the same basic level of Constitutional rights, and that should include law enforcement officers. Some blue states and some red states have passed legislation like this. The 90-day time-frame is important for the completion of the investigation. While the records of an investigation are closed, if there was an issue and it resulted in a civil or criminal complaint, that would be transparent and the public would find out about that. The intent is to maintain full transparency between agencies and departments. Law enforcement officers are compelled, up to and including termination, to make statements, whereas civilian defendants have a right to remain silent. Officers do not have that right. They do not have a right to remain silent, and they do not have a fundamental right to an attorney. This bill came about because some officers are being abused and bullied into complying with these investigations, and they are kind of held in limbo and cannot work anywhere else, even secondary employment, on which a lot of officers in rural departments rely, so they can't do anything and this is adversely affecting officers across the state. The Fifth Amendment should apply to officers, too, especially since the government is the employer. They can be compelled during the internal investigation and face termination if they do not comply, but they cannot be subject to additional charges.

Testifying for the bill were Representative Schroer; Arnie C. Dienoff; Brian Millikan, Millikan Law Office, LLC; Stephen "Jay" Schroeder, St. Louis Police Officers Association/Missouri Fraternal Order of Police; and Joseph A. Patterson, St. Louis County Police Association.

OPPOSERS: Those who oppose the bill submitted written testimony, which can be found online.

Testifying against the bill were Amy Axtell; JCRC; Elle Hollrah; Gail Wechsler; Gerald B Axelbaum; John Steffen; Jonathan Lindberg; Randee Steffen; Susan Gibson; Tara Bennett; Karen Rogers; American

Civil Liberties Union of Missouri; Richard A. Egan; and Kristin Bowen.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.