

FIRST REGULAR SESSION

# HOUSE BILL NO. 393

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ADAMS.

0537H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 590.653, RSMo, and to enact in lieu thereof seven new sections relating to the citizens police review board.

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

Section A. Sections 590.653, RSMo, is repealed and seven new sections enacted in lieu thereof, to be known as sections 590.653, 590.850, 590.853, 590.856, 590.859, 590.862, and 590.865, to read as follows:

590.653. 1. **In addition to the citizens police review board prescribed under sections 590.850 to 590.865**, each city, county and city not within a county may establish a civilian review board, or may use an existing civilian review board which has been appointed by the local governing body, with the authority to investigate allegations of misconduct by local law enforcement officers towards members of the public. The members shall not receive compensation but shall receive reimbursement from the local governing body for all reasonable and necessary expenses.

2. The board shall have the power to receive, investigate, make findings and recommend disciplinary action upon complaints by members of the public against members of the police department that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. The findings and recommendations of the board, and the basis therefor, shall be submitted to the chief law enforcement official. No finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any such findings or recommendations.

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.

**590.850. As used in sections 590.850 to 590.865 the following terms shall mean:**

- 2 (1) "Board", the citizens police review board, unless otherwise specified;
- 3 (2) "Complainant", a person who files a complaint with any law enforcement  
4 agency in this state;
- 5 (3) "Complaint", a written statement alleging misconduct of a law enforcement  
6 officer involving interaction with the public;
- 7 (4) "Department", the department of public safety;
- 8 (5) "Director", the director of the department of public safety;
- 9 (6) "Law enforcement officer" or "officer", a POST certified law enforcement  
10 officer, other than a chief of police, who has the power of arrest and is employed by any  
11 law enforcement agency in this state;
- 12 (7) "Misconduct", any violation of federal, state, or local law, ordinance, or  
13 regulation, or law enforcement agency policy, guideline, directive, rule, regulation, or order  
14 in effect at the time of the incident;
- 15 (8) "Notice", shall be considered given when it is hand delivered or three business  
16 days have passed since it was mailed.

- 590.853. 1. There is hereby created a "Citizens Police Review Board" within the**  
2 **department.**
- 3 **2. The board shall consist of six members appointed by the director and a member**  
4 **of the commission on human rights appointed by the commission. Members shall serve**  
5 **without compensation.**
- 6 **3. Board members shall be residents of the state and registered voters. Board**  
7 **members shall not be an elected public office holder, a candidate for elected public office,**  
8 **an employee of any political subdivision of the state, or a party to any pending litigation**  
9 **against any political subdivision of the state. Board members shall reflect the cultural and**  
10 **racial diversity of the state and have no serious criminal record. The department shall**  
11 **obtain a criminal history of all applicants for membership on the board and advise the**  
12 **director of any convictions for violations of federal, state, or local law.**
- 13 **4. Two of the members first appointed by the department shall serve terms of two**  
14 **years, two of the members shall serve terms of three years, and two of the members shall**  
15 **serve terms of four years. Thereafter, members appointed shall serve terms of three years.**  
16 **No member appointed by the department shall serve more than two consecutive full terms.**  
17 **The member appointed by the commission on human rights shall serve a term of one year**  
18 **and shall not serve more than six consecutive years. Vacancies shall be filled for unexpired**  
19 **terms in the same manner as original appointments.**

20           **5. Board members shall participate in orientation and training that includes review**  
21 **of the police professional standard unit's operating policies and procedures, a ride along**  
22 **with a law enforcement officer at least once every two years, and shall follow the National**  
23 **Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.**  
24 **Training shall also include topics suggested by NACOLE in its recommended orientation**  
25 **and training for board members.**

26           **6. The department shall have the authority to make any rule necessary to enforce**  
27 **or administer the provisions of sections 590.580 to 590.865. Any rule or portion of a rule,**  
28 **as that term is defined in section 536.010, that is created under the authority delegated in**  
29 **this section shall become effective only if it complies with and is subject to all of the**  
30 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536**  
31 **are nonseverable, and if any of the powers vested with the general assembly pursuant to**  
32 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**  
33 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**  
34 **proposed or adopted after August 28, 2017, shall be invalid and void.**

**590.856. 1. The citizens police review board shall convene to investigate any**  
2 **civilian fatality resulting from a law enforcement officer-involved shooting. In addition to**  
3 **its primary investigatory role, the board shall also have the following duties:**

4           **(1) Review appeals from decisions on alleged misconduct;**

5           **(2) Conduct a jurisdictional review from the decision that a person's allegations do**  
6 **not fall within the complaint requirements; and**

7           **(3) Conduct audits or reviews of the records of law enforcement agencies for**  
8 **compliance with the requirements of sections 590.850 to 590.865.**

9           **2. The board may recommend to the department that a board member be removed**  
10 **from the board if the member persistently fails to assist in performing the duties listed**  
11 **under this section.**

**590.859. 1. The board shall elect a chairperson and vice-chairperson from among**  
2 **its members. The term of these officers shall be one year. The chairperson shall preside**  
3 **at meetings. The vice-chairperson shall preside if the chairperson is absent or otherwise**  
4 **unable to preside.**

5           **2. Five members shall constitute a quorum for conducting business.**

6           **3. The board shall meet as needed to perform its duties if there has been a civilian**  
7 **fatality as a result of an officer-involved shooting. If requested by the board, the director**  
8 **or his or her designee shall attend board meetings to serve as an informational resource for**  
9 **the board.**

10           **4. In addition to any meetings convened under subsection 3 of this section, the**  
11 **board shall meet semi-annually with the director to discuss issues of concern and to**  
12 **recommend ways that law enforcement agencies can improve their relationships with**  
13 **citizens. The board may also make recommendations regarding policies, rules, hiring,**  
14 **training, and the complaint process.**

**590.862. 1. Any family member, friend, or attorney of a civilian who has died as**  
2 **a result of a law enforcement officer-involved shooting or any person who witnessed**  
3 **alleged misconduct of a law enforcement officer may file a complaint with the department**  
4 **within one year from the date of the alleged misconduct. The director shall notify the**  
5 **board chair of the complaint within fifteen days of its receipt. The board shall take no**  
6 **action on a complaint alleging misconduct that the law enforcement agency is treating as**  
7 **a criminal matter unless the agency determines that the officer's alleged conduct was not**  
8 **criminal or a prosecutor has declined to prosecute the alleged offense.**

9           **2. The board shall investigate the alleged misconduct by reviewing any**  
10 **investigation conducted by the law enforcement agency and, subject to appropriations,**  
11 **contracting with independent investigators to assist in its investigation of alleged**  
12 **misconduct.**

13           **3. The board may interview and hear comments from witnesses to the incident**  
14 **under investigation but shall not allow comments by the general public as part of its**  
15 **investigation.**

16           **4. The law enforcement agency and its officers shall cooperate with the board by**  
17 **appearing before the board upon request and answering all questions honestly and**  
18 **thoroughly. Failure to cooperate shall be grounds for disciplinary action up to and**  
19 **including dismissal from the law enforcement agency.**

20           **5. Law enforcement officers under investigation by the board shall have the**  
21 **following rights in connection with the investigation:**

22           **(1) The officer may provide a written or oral statement to an investigator or the**  
23 **board before investigative findings are made;**

24           **(2) The officer may have an attorney or representative present while he or she is**  
25 **being interviewed by the investigator or board;**

26           **(3) If practicable, the interview shall be conducted during the officer's normal**  
27 **working hours; and**

28           **(4) The officer may record the interview or obtain a copy of any recording of the**  
29 **interview.**

**590.865. 1. After an investigation under section 590.862 has been concluded and**  
2 **all witness testimony and forensic evidence reviewed, the board shall determine that:**

3           **(1) The complaint is unfounded because acts complained of did not occur or were**  
4 **misconstrued;**

5           **(2) The complaint is not sustained because insufficient facts could not prove or**  
6 **disprove the acts complained of;**

7           **(3) The complaint is sustained because sufficient facts proved there was misconduct;**  
8 **or**

9           **(4) The officer is exonerated because acts complained of occurred but were justified,**  
10 **lawful, and proper.**

11           **2. The board shall report its findings and determination to the prosecutor of the**  
12 **county or city not within a county where the officer-involved shooting occurred. The**  
13 **report shall include a recommendation to the prosecutor regarding whether the officer**  
14 **should be charged with a crime due to his or her involvement in the fatality.**

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