

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill Nos. 53 & 60, Pages 36-37, Section 217.690, Lines 39-90, by deleting said lines and
3 inserting in lieu thereof the following:
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5 "6. Any offender sentenced to a term of imprisonment amounting to fifteen years or more or
6 multiple terms of imprisonment that, taken together, amount to fifteen or more years who was under
7 eighteen years of age at the time of the commission of the offense or offenses may be eligible for
8 parole after serving fifteen years of incarceration, regardless of whether the case is final for the
9 purposes of appeal, and may be eligible for reconsideration hearings in accordance with regulations
10 promulgated by the parole board.

11 7. The provisions of subsection 6 shall not apply to an offender found guilty of murder in
12 the first degree or capital murder who was under eighteen years of age when the offender committed
13 the offense or offenses who may be found ineligible for parole or whose parole eligibility may be
14 controlled by section 558.047 or 565.033.

15 8. Any offender under a sentence for first degree murder who has been denied release on
16 parole after a parole hearing shall not be eligible for another parole hearing until at least three years
17 from the month of the parole denial; however, this subsection shall not prevent a release pursuant to
18 subsection 4 of section 558.011.

19 ~~[7-]~~ 9. A victim who has requested an opportunity to be heard shall receive notice that the
20 parole board is conducting an assessment of the offender's risk and readiness for release and that the
21 victim's input will be particularly helpful when it pertains to safety concerns and specific protective
22 measures that may be beneficial to the victim should the offender be granted release.

23 ~~[8-]~~ 10. Parole hearings shall, at a minimum, contain the following procedures:

24 (1) The victim or person representing the victim who attends a hearing may be accompanied
25 by one other person;

26 (2) The victim or person representing the victim who attends a hearing shall have the option
27 of giving testimony in the presence of the inmate or to the hearing panel without the inmate being
28 present;

29 (3) The victim or person representing the victim may call or write the parole board rather
30 than attend the hearing;

31 (4) The victim or person representing the victim may have a personal meeting with a parole
32 board member at the parole board's central office;

33 (5) The judge, prosecuting attorney or circuit attorney and a representative of the local law
34 enforcement agency investigating the crime shall be allowed to attend the hearing or provide
35 information to the hearing panel in regard to the parole consideration; and

36 (6) The parole board shall evaluate information listed in the juvenile sex offender registry

Action Taken _____ Date _____

1 pursuant to section 211.425, provided the offender is between the ages of seventeen and twenty-one,
2 as it impacts the safety of the community.

3 ~~[9.]~~ 11. The parole board shall notify any person of the results of a parole eligibility hearing
4 if the person indicates to the parole board a desire to be notified.

5 ~~[10.]~~ 12. The parole board may, at its discretion, require any offender seeking parole to meet
6 certain conditions during the term of that parole so long as said conditions are not illegal or
7 impossible for the offender to perform. These conditions may include an amount of restitution to
8 the state for the cost of that offender's incarceration.

9 ~~[11.]~~ 13. Special parole conditions shall be responsive to the assessed risk and needs of the
10 offender or the need for extraordinary supervision, such as electronic monitoring. The parole board
11 shall adopt rules to minimize the conditions placed on low-risk cases, to frontload conditions upon
12 release, and to require the modification and reduction of conditions based on the person's continuing
13 stability in the community. Parole board rules shall permit parole conditions to be modified by
14 parole officers with review and approval by supervisors.

15 ~~[12.]~~ 14. Nothing contained in this section shall be construed to require the release of an
16 offender on parole nor to reduce the sentence of an offender heretofore committed.

17 ~~[13.]~~ 15. Beginning January 1, 2001, the parole board shall not order a parole unless the
18 offender has obtained a high school diploma or its equivalent, or unless the parole board is satisfied
19 that the offender, while committed to the custody of the department, has made an honest good-faith
20 effort to obtain a high school diploma or its equivalent; provided that the director may waive this
21 requirement by certifying in writing to the parole board that the offender has actively participated in
22 mandatory education programs or is academically unable to obtain a high school diploma or its
23 equivalent.

24 ~~[14.]~~ 16. Any rule or portion of a rule, as that term is defined in section 536.010, that is
25 created under the authority delegated in this section shall become effective only if it complies with
26 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
27 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
28 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
29 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
30 adopted after August 28, 2005, shall be invalid and void."; and

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32 Further amend said bill, Page 38, Section 217.692, Line 33, by deleting the number "8" and
33 inserting in lieu thereof the numbers "[8] 10"; and

34
35 Further amend said bill, Pages 94-100, Section 590.500, Lines 1-198, by deleting said lines and
36 inserting in lieu thereof the following:

37
38 "590.502. 1. For purposes of this section, the following shall mean:

39 (1) "Administering authority", any individual or body authorized by a law enforcement
40 agency to hear and make final decisions regarding appeals of disciplinary actions issued by such
41 agency;

42 (2) "Color of law", any act by a law enforcement officer, whether on duty or off duty, that is
43 performed in furtherance of his or her sworn duty to enforce laws and to protect and serve the
44 public;

45 (3) "Economic loss", any economic loss including, but not limited to, loss of overtime
46 accrual, overtime income, sick time accrual, sick time, secondary employment income, holiday pay,
47 and vacation pay;

48 (4) "Good cause", sufficient evidence or facts that would support a party's request for
49 extensions of time or any other requests seeking accommodations outside the scope of the rules set

1 out herein;

2 (5) "Law enforcement officer", any commissioned peace officer with the power to arrest for
3 a violation of the criminal code who is employed by any unit of the state or any county, charter
4 county, city, charter city, municipality, district, college, university, or any other political subdivision
5 or is employed by the board of police commissioners as defined in chapter 84. "Law enforcement
6 officer" shall not include any officer who is the highest ranking officer in the law enforcement
7 agency.

8 2. Whenever a law enforcement officer is under administrative investigation or is subjected
9 to administrative questioning that the officer reasonably believes could lead to disciplinary action,
10 demotion, dismissal, transfer, or placement on a status that could lead to economic loss, the
11 investigation or questioning shall be conducted under the following conditions:

12 (1) The law enforcement officer who is the subject of the investigation shall be informed, in
13 writing, of the existence and nature of the alleged violation and the individuals who will be
14 conducting the investigation. Notice shall be provided to the officer along with a copy of the
15 complaint at least twenty-four hours prior to any interrogation or interview of the officer;

16 (2) Any person, including members of the same agency or department as the officer under
17 investigation, filing a complaint against a law enforcement officer shall have the complaint
18 supported by a written statement outlining the complaint that includes the personal identifying
19 information of the person filing the complaint. All personal identifying information shall be held
20 confidential by the investigating agency;

21 (3) When a law enforcement officer is questioned or interviewed regarding matters
22 pertaining to his or her law enforcement duties or actions taken within the scope of his or her
23 employment, such questioning shall be conducted for a reasonable length of time and only while the
24 officer is on duty unless reasonable circumstances exist that necessitate questioning the officer while
25 he or she is off duty;

26 (4) Any interviews or questioning shall be conducted at a secure location at the agency that
27 is conducting the investigation or at the place where the officer reports to work, unless the officer
28 consents to another location;

29 (5) Law enforcement officers shall be questioned by up to two investigators and shall be
30 informed of the name, rank, and command of the investigator or investigators conducting the
31 investigation; except that, separate investigators shall be assigned to investigate alleged department
32 policy violations and alleged criminal violations;

33 (6) Interview sessions shall be for a reasonable period of time. There shall be times provided
34 for the officer to allow for such personal necessities and rest periods as are reasonably necessary;

35 (7) Prior to an interview session, the investigator or investigators conducting the
36 investigation shall advise the law enforcement officer of the rule set out in *Garrity v. New Jersey*,
37 385 U.S. 493 (1967), specifically that the law enforcement officer is being ordered to answer
38 questions under threat of disciplinary action and that the officer's answers to the questions will not
39 be used against the officer in criminal proceedings;

40 (8) Law enforcement officers shall not be threatened, harassed, or promised rewards to
41 induce them into answering any question; except that, law enforcement officers may be compelled
42 by their employer to give protected *Garrity* statements to an investigator under the direct control of
43 the employer, but such compelled statements shall not be used or derivatively used against the
44 officer in any aspect of a criminal case brought against the officer;

45 (9) Law enforcement officers under investigation are entitled to have an attorney or any
46 duly authorized representative present during any questioning that the law enforcement officer
47 reasonably believes may result in disciplinary action. The attorney or representative shall be
48 permitted to confer with the officer but shall not unduly disrupt or interfere with the interview. The
49 questioning shall be suspended for a period of up to twenty-four hours if the officer requests

1 representation;

2 (10) Prior to the law enforcement officer being interviewed, the officer and his or her
3 attorney or representative shall have the opportunity to review the complaint;

4 (11) Law enforcement officers or their designated representative shall have the right to bring
5 their own recording device and may record all aspects of the interview;

6 (12) The law enforcement agency conducting the investigation shall have ninety days from
7 receipt of a citizen complaint or from the date the agency became aware of the alleged conduct upon
8 which the allegation rests to complete such investigation. The agency shall determine the
9 disposition of the complaint and render a disciplinary decision, if any, within ninety days. The
10 agency may, for good cause, petition the administering authority overseeing the administration of
11 discipline for an extension of time to complete the investigation. If the administering authority finds
12 the agency has shown good cause for the granting of an extension of time to complete the
13 investigation, the administering authority shall grant an extension of up to sixty days. The agency is
14 limited to two extensions per investigation; except that, if there is an ongoing criminal investigation
15 there shall be no limitation on the amount of sixty-day extensions. For good cause shown, the
16 internal investigation may be tolled until the conclusion of a concurrent criminal investigation
17 arising out of the same alleged conduct. Absent consent from the officer being investigated, the
18 administering authority overseeing the administration of discipline shall set the matter for hearing
19 and shall provide notice of the hearing to the law enforcement officer under investigation. The
20 officer shall have the right to attend the hearing and to present evidence and arguments against
21 extension;

22 (13) Within five days of the conclusion of the administrative investigation, the investigator
23 shall inform the officer, in writing, of the investigative findings and any recommendation for further
24 action, including discipline;

25 (14) A complete record of the administrative investigation shall be kept by the law
26 enforcement agency conducting such investigation. Upon completion of the investigation, a copy of
27 the entire record, including, but not limited to, audio, video, and transcribed statements, shall be
28 provided to the officer or the officer's representative within five business days of the officer's written
29 request. The agency may request a protective order to redact all personal identifying witness
30 information; and

31 (15) All records compiled as a result of any investigation subject to the provisions of this
32 section shall be held confidential and shall not be subject to disclosure under chapter 610, except by
33 lawful subpoena or court order, by release approved by the officer, or as provided in section
34 590.070.

35 3. Law enforcement officers who are suspended without pay, demoted, terminated,
36 transferred, or placed on a status resulting in economic loss shall be entitled to a full due process
37 hearing. However, nothing in this section shall prohibit a law enforcement agency and the
38 authorized bargaining representative for a law enforcement officer employed by that agency from
39 reaching written agreements providing disciplinary procedures more favorable than those provided
40 for this section. The components of the hearing shall include, at a minimum:

41 (1) The right to be represented by an attorney or other individual of their choice during the
42 hearing;

43 (2) The right of the law enforcement officer or his or her attorney to conduct discovery prior
44 to the hearing. Depositions may be taken in the same manner and under the same conditions as
45 provided for in the Missouri civil rules of civil procedure for civil cases in the circuit court.
46 Subpoenas may be issued by the board conducting the hearing or by the circuit court or the office of
47 the clerk for the county where the agency has its principal place of business;

48 (3) Seven days' notice of the hearing date and time;

49 (4) An opportunity to access and review documents, at least seven days in advance of the

1 hearing, that are in the employer's possession and that were used as a basis for the disciplinary
2 action;

3 (5) The right of the law enforcement officer or his or her attorney to present witnesses and
4 evidence in the officer's defense and a right to cross-examine any adverse witnesses against the
5 officer;

6 (6) The right to refuse to testify at the hearing if the officer is concurrently facing criminal
7 charges in connection with the same incident. A law enforcement officer's decision not to testify
8 shall not result in additional internal charges or discipline;

9 (7) A complete record of the hearing shall be kept by the agency for purposes of appeal.
10 The record shall be provided to the officer or his or her attorney upon written request;

11 (8) The entire record of the hearing shall remain confidential and shall not be subject to
12 disclosure under chapter 610, except by lawful subpoena or court order.

13 4. Any decision, order, or action taken following the hearing shall be in writing and shall be
14 accompanied by findings of fact. The findings shall consist of a concise statement upon each issue
15 in the case. A copy of the decision or order accompanying findings and conclusions along with the
16 written action and right of appeal, if any, shall be delivered or mailed promptly to the law
17 enforcement officer or to the officer's attorney or representative of record.

18 5. Law enforcement officers shall have the opportunity to provide a written response to any
19 adverse materials placed in their personnel file, and such written response shall be permanently
20 attached to the adverse material.

21 6. Law enforcement officers shall have the right to compensation for any economic loss
22 incurred during an investigation if the officer is found to have committed no misconduct.

23 7. Law enforcement officers may petition the circuit court in the county in which the law
24 enforcement agency has its principal place of business to review the decision of the administrative
25 body hearing the appeal of discipline. Upon a finding that the discipline was not justified, the
26 circuit court may award the law enforcement officer back pay and costs incurred in bringing the suit,
27 including attorney's fees.

28 8. Employers shall defend and indemnify law enforcement officers from and against civil
29 claims made against them in their official and individual capacities if the alleged conduct arose in
30 the course and scope of their obligations and duties as law enforcement officers. This includes any
31 actions taken off duty if such actions were taken under color of law. In the event the law
32 enforcement officer is convicted of, or pleads guilty to, criminal charges arising out of the same
33 conduct, the employer shall no longer be obligated to defend and indemnify the officer in
34 connection with related civil claims.

35 9. Law enforcement officers shall not be disciplined, demoted, dismissed, transferred, or
36 placed on a status resulting in economic loss as a result of the assertion of their constitutional rights
37 in any judicial proceeding, unless the officer admits to wrong-doing, in which case the provisions of
38 this section shall not apply.

39 10. No state or local governmental unit including, but not limited to, a county, charter
40 county, city, charter city, municipality, district, college, university, or any other political subdivision
41 that employs a law enforcement officer shall enact, promulgate, enforce, or follow any law,
42 regulation, or policy that would abolish, conflict with, modify, or in any way diminish any right or
43 remedy provided to law enforcement officers under this section.

44 11. The rights set out in this section are minimum standards to be applied throughout the
45 state. However, nothing in this section shall prohibit a law enforcement agency and the authorized
46 bargaining representative for a law enforcement officer employed by that agency from reaching
47 written agreements providing disciplinary procedures more favorable than those provided in this
48 section.

49 12. Any aggrieved law enforcement officer or authorized representative may seek judicial

1 enforcement of the requirements of this section. Suits to enforce this section shall be brought in the
2 circuit court for the county in which the law enforcement agency or governmental body has its
3 principal place of business.

4 13. Upon a finding by a preponderance of the evidence that a law enforcement agency,
5 governmental body, or member of same has violated any provision of this section, a court shall void
6 any action taken in violation of this section. The court may also award the law enforcement officer
7 the costs of bringing the suit including, but not limited to, attorneys' fees. A lawsuit for enforcement
8 shall be brought within one year from which the violation is ascertainable.

9 14. Nothing in this section shall apply to any investigation or other action by the director
10 regarding a license issued by the director under this chapter.

11 15. A law enforcement agency that has substantially similar or greater procedures shall be
12 deemed in compliance with this section."; and

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14 Further amend said bill by amending the title, enacting clause, and intersectional references
15 accordingly.