

FIRST REGULAR SESSION

# HOUSE BILL NO. 1172

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRAY.

1867H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal section 563.046, RSMo, and to enact in lieu thereof two new sections relating to the use of force by law enforcement officers.

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

Section A. Section 563.046, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 563.046 and 650.467, to read as follows:

563.046. 1. A law enforcement officer need not retreat or desist from efforts to effect the arrest, or from efforts to prevent the escape from custody, of a person he or she reasonably believes to have committed an offense because of resistance or threatened resistance of the arrestee. In addition to the use of physical force authorized under other sections of this chapter, a law enforcement officer is, subject to the provisions of subsections 2 and 3 of this section, justified in the use of such physical force as he or she reasonably believes is immediately necessary to effect the arrest or to prevent the escape from custody.

2. The use of any physical force in making an arrest is not justified under this section unless the arrest is lawful or the law enforcement officer reasonably believes the arrest is lawful, and the amount of physical force used was objectively reasonable in light of the totality of the particular facts and circumstances confronting the officer on the scene, without regard to the officer's underlying intent or motivation.

3. In effecting an arrest or in preventing an escape from custody, a law enforcement officer is justified in using deadly force only:

(1) When deadly force is authorized under other sections of this chapter; or

(2) When ~~the officer reasonably believes that such use of deadly force is immediately necessary to effect the arrest or prevent an escape from custody and also~~ **all other reasonable**

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.

18 **means of apprehension have been exhausted or are unavailable, the officer has given notice**  
19 **of the officer's identity as law enforcement and a warning that deadly force may be used**  
20 **unless resistance or flight ceases, and the officer** reasonably believes that the person to be  
21 arrested[:

22 ~~—— (a) Has committed or attempted to commit a felony offense involving the infliction or~~  
23 ~~threatened infliction of serious physical injury; or~~

24 ~~—— (b) is attempting to escape [by use of] and possesses a deadly weapon or dangerous~~  
25 ~~instrument]; or~~

26 ~~—— (c) May otherwise endanger life or inflict serious physical injury to the officer or others~~  
27 ~~unless arrested without delay].~~

28 4. The defendant shall have the burden of injecting the issue of justification under this  
29 section.

30 5. **When a law enforcement officer uses deadly force against an unarmed person**  
31 **who is at a distance of twenty feet or greater from the officer thereby posing no imminent**  
32 **danger to the officer, the officer shall be immediately suspended and removed from duty,**  
33 **without pay, until a full investigation of the incident has been completed.**

650.467. 1. There is hereby established in the department of public safety the  
2 "Task Force on the Use of Force by a Law Enforcement Officer". The task force shall  
3 focus its efforts on clarifying the use of force allowed by law enforcement officers, under  
4 section 563.046, in a county with a charter form of government and with more than nine  
5 hundred fifty thousand inhabitants.

6 2. The task force shall have a membership of nine persons appointed by the  
7 director of public safety. Membership may include, but does not need to be limited to, the  
8 following:

9 (1) A person from the POST commission;

10 (2) A former sheriff, chief of police, deputy sheriff, or deputy chief of police;

11 (3) An assistant attorney general;

12 (4) A retired judge;

13 (5) A licensed attorney with experience in criminal defense who is in no way  
14 involved in prosecuting crimes; and

15 (6) A former prosecuting attorney or assistant prosecuting attorney who served in  
16 that capacity for at least ten years.

17 3. The director of the department of public safety or the director's designee shall  
18 convene the first meeting of the task force for the purpose of establishing the bylaws of the  
19 task force and electing officers to include a chair, vice chair, and secretary. The task force

20 shall not meet more than four times annually. Members may be reimbursed for expenses  
21 but shall not receive a per diem allowance.

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