

SECOND REGULAR SESSION

# HOUSE BILL NO. 1502

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WALTON GRAY.

4396H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 563.046 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 563.046 as enacted by senate bill no. 60, seventy-ninth general assembly, first regular session, RSMo, and to enact in lieu thereof two new sections relating to the use of force by law enforcement officers.

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

Section A. Section 563.046 as enacted by senate bill no. 491, ninety-seventh general  
2 assembly, second regular session, and section 563.046 as enacted by senate bill no. 60, seventy-  
3 ninth general assembly, first regular session, RSMo, are repealed and two new sections enacted  
4 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  
2 the arrest, or from efforts to prevent the escape from custody, of a person he or she reasonably  
3 believes to have committed an offense because of resistance or threatened resistance of the  
4 arrestee. In addition to the use of physical force authorized under other sections of this chapter,  
5 a law enforcement officer is, subject to the provisions of subsections 2 and 3 **of this section**,  
6 justified in the use of such physical force as he or she reasonably believes is immediately  
7 necessary to effect the arrest or to prevent the escape from custody.

8 2. The use of any physical force in making an arrest is not justified under this section  
9 unless the arrest is lawful or the law enforcement officer reasonably believes the arrest is lawful.

10 3. A law enforcement officer in effecting an arrest or in preventing an escape from  
11 custody is justified in using deadly force only:

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

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.

13 (2) When [he or she reasonably believes that such use of deadly force is immediately  
14 necessary to effect the arrest and also] **all other reasonable means of apprehension have been**  
15 **exhausted or are unavailable, the officer has given notice of the officer's identity as such**  
16 **and a warning that deadly force may be used unless resistance or flight ceases, and the**  
17 **officer** reasonably believes that the person to be arrested[:

18 (a) Has committed or attempted to commit a felony; or

19 (b)] is attempting to escape [by use of] **and possesses** a deadly weapon[; or

20 (c) May otherwise endanger life or inflict serious physical injury unless arrested without  
21 delay].

22 4. The defendant shall have the burden of injecting the issue of justification under this  
23 section.

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

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2 the arrest, or from efforts to prevent the escape from custody, of a person he reasonably believes  
3 to have committed an offense because of resistance or threatened resistance of the arrestee. In  
4 addition to the use of physical force authorized under other sections of this chapter, he is, subject  
5 to the provisions of subsections 2 and 3 **of this section**, justified in the use of such physical force  
6 as he reasonably believes is immediately necessary to effect the arrest or to prevent the escape  
7 from custody.

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27 **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 a "Task**  
2 **Force On The Use Of Force By A Law Enforcement Officer". The task force shall focus**  
3 **its efforts on clarifying the use of force allowed by law enforcement officers, under section**  
4 **563.046, in a county with a charter form of government and with more than nine hundred**  
5 **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 not be limited to, the following:**

8 **(1) A person from the POST commission;**

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

10 **(3) An assistant attorney general;**

11 **(4) A retired judge;**

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

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

16 **3. The director of the department of public safety or the director's designee shall**  
17 **convene the first meeting of the task force for the purpose of establishing the bylaws of the**  
18 **task force and electing officers to include a chairperson, vice chairperson, and secretary.**  
19 **The task force shall not meet more than four times annually. Members may be reimbursed**  
20 **for expenses but shall not receive a per-diem allowance.**

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