

FIRST EXTRAORDINARY SESSION OF THE  
SECOND REGULAR SESSION

**HOUSE BILL NO. 31**

**100TH GENERAL ASSEMBLY**

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INTRODUCED BY REPRESENTATIVE ROBERTS (77).

5842H.011

DANA RADEMAN MILLER, Chief Clerk

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**AN ACT**

To amend chapter 590, RSMo, by adding thereto one new section relating to a peace officer's duty to intervene, with a penalty provision and an emergency clause.

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

Section A. Chapter 590, RSMo, is amended by adding thereto one new section, to be  
2 known as section 590.1060, to read as follows:

**590.1060. 1. A peace officer shall intervene to prevent or stop another peace officer  
2 from using physical force that exceeds the degree of force permitted under this chapter in  
3 pursuance of the other peace officer's law enforcement duties in carrying out an arrest of  
4 any person, placing any person under detention, taking any person into custody, booking  
5 any person, or in the process of crowd or riot control without regard to chain of command.**

**6 2. A peace officer who intervenes as required under subsection 1 of this section  
7 shall report the intervention to his or her immediate supervisor. At a minimum, the report  
8 required under this subsection shall include:**

- 9 (1) The date, time, and place of the occurrence;  
10 (2) The identity, if known and description of the participants; and  
11 (3) A description of the intervention actions taken.

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**13 Such report shall be made in writing within ten days of the occurrence of the use of such  
14 force and shall be appended to all other reports of the incident.**

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.

15           **3. A member of a law enforcement agency shall not discipline or retaliate in any**  
16 **way against a peace officer for intervening as required under subsection 1 of this section,**  
17 **reporting unconstitutional conduct, or failing to follow what the peace officer reasonably**  
18 **believes is an unconstitutional directive.**

19           **4. When an internal investigation finds that a peace officer failed to intervene or**  
20 **prevent the use of unlawful physical force under this section, such finding shall be**  
21 **presented to the prosecuting attorney for a determination as to whether charges should be**  
22 **filed. However, nothing in this subsection prohibits the prosecuting attorney from**  
23 **charging a peace officer with failure to intervene before the conclusion of any internal**  
24 **investigation.**

25           **5. In addition to any criminal liability and penalty, when an internal investigation**  
26 **finds that a peace officer failed to intervene or prevent the use of unlawful physical force**  
27 **under this section in an incident resulting in serious bodily injury or death to any person,**  
28 **the peace officer's employer shall subject the peace officer to discipline, up to and including**  
29 **termination, to the extent permitted under applicable constitutional and statutory law and**  
30 **the POST Commission shall revoke the peace officer's certification under chapter 590**  
31 **upon receipt of notice of the peace officer's discipline. Such revocation may only be**  
32 **overturned if the peace officer is exonerated by a court.**

33           **6. In a case in which the prosecution charges a peace officer with offenses related**  
34 **to and based on the use of excessive force but does not file charges against any other peace**  
35 **officer or officers who were at the scene during the use of force, the prosecuting attorney**  
36 **shall prepare a written report explaining his or her basis for the decision not to charge any**  
37 **other peace officer with criminal conduct and shall disclose the report to the public; except**  
38 **that if disclosure of the report would substantially interfere with or jeopardize an ongoing**  
39 **criminal investigation, the prosecuting attorney may delay public disclosure for up to forty-**  
40 **five days. The prosecuting attorney shall post the written report on its website or, if it does**  
41 **not have a website, make it publicly available upon request.**

42           **7. The offense of failing to intervene to prevent the use of unlawful force under this**  
43 **section is considered an act of complicity and the penalty for such act shall be equal to the**  
44 **penalty imposed against the peace officer who committed the original wrongdoing for**  
45 **which the peace officer failed to intervene. Nothing in this subsection shall prohibit or**  
46 **discourage prosecution of any other criminal offense related to failure to intervene,**  
47 **including a higher charge, if supported by the evidence.**

Section B. Because immediate action is necessary to fight violent crime in Missouri and  
2 to protect our citizens and residents from the actions of law enforcement officers that jeopardize  
3 the life and safety of our citizens and residents, section A of this act is deemed necessary for the

4 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared  
5 to be an emergency act within the meaning of the constitution, and section A of this act shall be  
6 in full force and effect upon its passage and approval.

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