

# SENATE BILL NO. 320

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROBERTS.

1435S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal section 563.046, RSMo, and to enact in lieu thereof one new section relating to the use of a chokehold by a law enforcement officer, with a penalty provision and an emergency clause.

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

Section A. Section 563.046, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 563.046,  
3 to read as follows:

563.046. 1. A law enforcement officer need not  
2 retreat or desist from efforts to effect the arrest, or from  
3 efforts to prevent the escape from custody, of a person he  
4 or she reasonably believes to have committed an offense  
5 because of resistance or threatened resistance of the  
6 arrestee. In addition to the use of physical force  
7 authorized under other sections of this chapter, a law  
8 enforcement officer is, subject to the provisions of  
9 subsections 2 [and], 3, and 4 of this section, justified in  
10 the use of such physical force as he or she reasonably  
11 believes is immediately necessary to effect the arrest or to  
12 prevent the escape from custody.

13 2. The use of any physical force in making an arrest  
14 is not justified under this section unless the arrest is  
15 lawful or the law enforcement officer reasonably believes  
16 the arrest is lawful, and the amount of physical force used  
17 was objectively reasonable in light of the totality of the

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 particular facts and circumstances confronting the officer  
19 on the scene, without regard to the officer's underlying  
20 intent or motivation.

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

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

26 (2) When the officer reasonably believes that such use  
27 of deadly force is immediately necessary to effect the  
28 arrest or prevent an escape from custody and also reasonably  
29 believes that the person to be arrested:

30 (a) Has committed or attempted to commit a felony  
31 offense involving the infliction or threatened infliction of  
32 serious physical injury; or

33 (b) Is attempting to escape by use of a deadly weapon  
34 or dangerous instrument; or

35 (c) May otherwise endanger life or inflict serious  
36 physical injury to the officer or others unless arrested  
37 without delay.

38 4. **In effecting an arrest or in preventing an escape**  
39 **from custody, a law enforcement officer is justified in**  
40 **using a chokehold only when he or she reasonably believes**  
41 **that it is necessary to defend himself or herself or a third**  
42 **person from what he or she believes to be the use or**  
43 **imminent use of deadly physical force or infliction of**  
44 **serious physical injury. The use of a chokehold for any**  
45 **other purpose shall be cause for the law enforcement**  
46 **officer's immediate dismissal and revocation of his or her**  
47 **POST certification under chapter 590. For purposes of this**  
48 **section, "chokehold" means a method by which a person holds**  
49 **another person by putting his or her arm around the other**

50 **person's neck with sufficient pressure to make breathing**  
51 **difficult or impossible and includes, but is not limited to,**  
52 **any pressure to the throat or windpipe that may prevent or**  
53 **hinder breathing or reduce intake of air.**

54       5. The defendant shall have the burden of injecting  
55 the issue of justification under this section.

Section B. Because immediate action is necessary to  
2 fight violent crime in Missouri and to protect our citizens  
3 and residents from the actions of law enforcement officers  
4 that jeopardize the life and safety of our citizens and  
5 residents, section A of this act is deemed necessary for the  
6 immediate preservation of the public health, welfare, peace  
7 and safety, and is hereby declared to be an emergency act  
8 within the meaning of the constitution, and section A of  
9 this act shall be in full force and effect upon its passage  
10 and approval.

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