

FIRST REGULAR SESSION

# SENATE BILL NO. 42

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Pre-filed December 1, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0400S.02I

## 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 deadly force by law enforcement officers.

*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 assembly, second regular session, and section 563.046 as enacted by senate bill no. 60, seventy-ninth general assembly, first regular session, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 563.046 and 563.046, to read as follows: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, 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.

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

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

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

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

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

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

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

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

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

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

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

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16 immediately necessary to effect the arrest and also] **all other reasonable**

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Bill

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