

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILLS NOS. 199, 417, & 42

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 one new section relating to the use of deadly force by law enforcement officers, with an emergency clause for a certain section and an effective date for a certain section.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Section 563.046 as enacted by senate bill no.
2 491, ninety-seventh general assembly, second regular session, and
3 section 563.046 as enacted by senate bill no. 60, seventy-ninth
4 general assembly, first regular session, RSMo, are repealed and
5 one new section enacted in lieu thereof, to be known as section
6 563.046, to read as follows:

7 563.046. 1. A law enforcement officer need not retreat or
8 desist from efforts to effect the arrest, or from efforts to
9 prevent the escape from custody, of a person he or she reasonably
10 believes to have committed an offense because of resistance or
11 threatened resistance of the arrestee. In addition to the use of
12 physical force authorized under other sections of this chapter, a
13 law enforcement officer is, subject to the provisions of

1 subsections 2 and 3, justified in the use of such physical force
2 as he or she reasonably believes is immediately necessary to
3 effect the arrest or to prevent the escape from custody.

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

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

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

17 (2) When [he or she] the officer reasonably believes that
18 such use of deadly force is immediately necessary to effect the
19 arrest or prevent an escape from custody and also [reasonably
20 believes] has probable cause to believe that the person to be
21 arrested:

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

25 (b) Is attempting to escape by use of a deadly weapon; or

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

28 4. The defendant shall have the burden of injecting the

1 issue of justification under this section.

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

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

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

23 (1) When such is authorized under other sections of this
24 chapter; or

25 (2) When [he] the officer reasonably believes that such use
26 of deadly force is immediately necessary to effect the arrest or
27 prevent an escape from custody and also [reasonably believes] has
28 probable cause to believe that the person to be arrested:

1 (a) Has committed or attempted to commit a felony offense
2 involving the infliction or threatened infliction of serious
3 physical injury; or

4 (b) Is attempting to escape by use of a deadly weapon; or

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

7 4. The defendant shall have the burden of injecting the
8 issue of justification under this section.

9 Section B. Because of the need to clarify Missouri's deadly
10 force statute to align with supreme court precedent, the repeal
11 and reenactment of the second occurrence of section 563.046 of
12 this act is deemed necessary for the immediate preservation of
13 the public health, welfare, peace and safety, and is hereby
14 declared to be an emergency act within the meaning of the
15 constitution, and the repeal and reenactment of the second
16 occurrence of section 563.046 of this act shall be in full force
17 and effect upon its passage and approval.

18 Section C. The repeal and reenactment of the first
19 occurrence of section 563.046 of this act shall become effective
20 January 1, 2017.