

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4 general assembly, first regular session, RSMo, are repealed and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 that the person to be arrested:

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

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

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

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

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

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25 of deadly force is immediately necessary to effect the arrest or
26 prevent an escape from custody and also reasonably believes that
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5 injury to the officer or others unless arrested without delay.

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7 issue of justification under this section.

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

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