

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NOS. 661, 726 & 741

98TH GENERAL ASSEMBLY

5051H.03C

D. ADAM CRUMBLISS, Chief Clerk

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, and to enact in lieu thereof one new section relating to actions committed by government officials, 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:

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3 ninth general assembly, first regular session, are repealed and one new section enacted in lieu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

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

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

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.

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

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

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

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

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

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

25 4. The defendant shall have the burden of injecting the issue of justification under this
26 section.

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2 the arrest, or from efforts to prevent the escape from custody, of a person he reasonably believes
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4 addition to the use of physical force authorized under other sections of this chapter, he is, subject
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Section B. Because of the need to clarify Missouri's deadly force statute to align with
2 supreme court precedent, the repeal and reenactment of the second occurrence of section 563.046
3 of this act is deemed necessary for the immediate preservation of the public health, welfare,
4 peace and safety, and is hereby declared to be an emergency act within the meaning of the
5 constitution, and the repeal and reenactment of the second occurrence of section 563.046 of this
6 act shall be in full force and effect upon its passage and approval.

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

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