

FIRST EXTRAORDINARY SESSION

SENATE BILL NO. 13

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ONDER.

Read 1st time July 27, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5788S.02I

AN ACT

To repeal sections 563.011 and 563.031, RSMo, and to enact in lieu thereof two new sections relating to public safety.

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

Section A. Sections 563.011 and 563.031, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 563.011 and 563.031, to
3 read as follows:

563.011. As used in this chapter the following terms shall mean:

2 (1) "Armed nuclear security guard", a security guard who works at a
3 nuclear power plant, who is employed as part of the security plan approved by the
4 United States Nuclear Regulatory Commission, and who meets the requirements
5 mandated by the United States Nuclear Regulatory Commission for carrying a
6 firearm;

7 (2) "Curtilage", **the land immediately surrounding a house,**
8 **residence, or dwelling, including any closely associated buildings or**
9 **structures;**

10 (3) "Deadly force", physical force which the actor uses with the purpose
11 of causing or which he or she knows to create a substantial risk of causing death
12 or serious physical injury;

13 [(3)] (4) "Dwelling", any building, inhabitable structure, or conveyance
14 of any kind, whether the building, inhabitable structure, or conveyance is
15 temporary or permanent, mobile or immobile, which has a roof over it, including
16 a tent, and is designed to be occupied by people lodging therein at night;

17 [(4)] (5) "Forcible felony", any felony involving the use or threat of

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

18 physical force or violence against any individual, including but not limited to
19 murder, robbery, burglary, arson, kidnapping, assault, and any forcible sexual
20 offense;

21 [(5)] **(6)** "Premises", includes any building, inhabitable structure and any
22 real property;

23 [(6)] **(7)** "Private person", any person other than a law enforcement
24 officer;

25 [(7)] **(8)** "Private property", any real property in this state that is
26 privately owned or leased;

27 [(8)] **(9)** "Remain after unlawfully entering", to remain in or upon
28 premises after unlawfully entering as defined in this section;

29 [(9)] **(10)** "Residence", a dwelling in which a person resides either
30 temporarily or permanently or is visiting as an invited guest;

31 [(10)] **(11)** "Structure or fenced yard", any structure, fenced yard, wall,
32 building, other similar barrier, or any combination of the foregoing that is located
33 on the real property of a nuclear power plant and that is posted with signage
34 indicating it is a felony to trespass;

35 [(11)] **(12)** "Unlawfully enter", a person unlawfully enters in or upon
36 premises or private property when he or she enters such premises or private
37 property and is not licensed or privileged to do so. A person who, regardless of
38 his or her purpose, enters in or upon private property or premises that are at the
39 time open to the public does so with license unless he or she defies a lawful order
40 not to enter, personally communicated to him or her by the owner of such
41 premises or by another authorized person. A license to enter in a building that
42 is only partly open to the public is not a license to enter in that part of the
43 building that is not open to the public.

563.031. 1. A person may, subject to the provisions of subsection 2 of this
2 section, use physical force upon another person when and to the extent he or she
3 reasonably believes such force to be necessary to defend himself or herself or a
4 third person from what he or she reasonably believes to be the use or imminent
5 use of unlawful force by such other person, unless:

6 (1) The actor was the initial aggressor; except that in such case his or her
7 use of force is nevertheless justifiable provided:

8 (a) He or she has withdrawn from the encounter and effectively
9 communicated such withdrawal to such other person but the latter persists in
10 continuing the incident by the use or threatened use of unlawful force; or

11 (b) He or she is a law enforcement officer and as such is an aggressor
12 pursuant to section 563.046; or

13 (c) The aggressor is justified under some other provision of this chapter
14 or other provision of law;

15 (2) Under the circumstances as the actor reasonably believes them to be,
16 the person whom he or she seeks to protect would not be justified in using such
17 protective force;

18 (3) The actor was attempting to commit, committing, or escaping after the
19 commission of a forcible felony.

20 2. A person shall not use deadly force upon another person under the
21 circumstances specified in subsection 1 of this section unless:

22 (1) He or she reasonably believes that such deadly force is necessary to
23 protect himself, or herself or her unborn child, or another against death, serious
24 physical injury, or any forcible felony;

25 (2) Such force is used against a person who unlawfully enters, remains
26 after unlawfully entering, or attempts to unlawfully enter a dwelling, **including**
27 **the curtilage of the dwelling**, residence, or vehicle lawfully occupied by such
28 person; or

29 (3) Such force is used against a person who unlawfully enters, remains
30 after unlawfully entering, or attempts to unlawfully enter private property that
31 is owned or leased by an individual, or is occupied by an individual who has been
32 given specific authority by the property owner to occupy the property, claiming
33 a justification of using protective force under this section.

34 3. A person does not have a duty to retreat:

35 (1) From a dwelling, residence, or vehicle where the person is not
36 unlawfully entering or unlawfully remaining;

37 (2) From private property that is owned or leased by such individual; or

38 (3) If the person is in any other location such person has the right to be.

39 4. The justification afforded by this section extends to the use of physical
40 restraint as protective force provided that the actor takes all reasonable measures
41 to terminate the restraint as soon as it is reasonable to do so.

42 5. The defendant shall have the burden of injecting the issue of
43 justification under this section. If a defendant asserts that his or her use of force
44 is described under subdivision (2) of subsection 2 of this section, the burden shall
45 then be on the state to prove beyond a reasonable doubt that the defendant did
46 not reasonably believe that the use of such force was necessary to defend against

47 what he or she reasonably believed was the use or imminent use of unlawful
48 force.

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Unofficial

Bill

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