FIRST REGULAR SESSION

SENATE BILL NO. 66

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRATTIN.

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 67.030, 537.600, 544.671, 563.031, 565.050, 565.052, 565.054, 565.091, 574.050, and 574.085, RSMo, and to enact in lieu thereof fourteen new sections relating to public safety, with penalty provisions.

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

Section A. Sections 67.030, 537.600, 544.671, 563.031, 565.050, 565.052, 565.054, 565.091, 574.050, and 574.085, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 67.030, 285.800, 537.570, 537.600, 544.671, 563.031, 565.050, 565.052, 565.054, 565.091, 574.045, 574.050, 574.055, and 574.085, to read as follows:

67.030. 1. The governing body of each political subdivision may revise, alter, increase or decrease the items contained in the proposed budget, subject to such limitations as may be provided by law or charter or in subsection 2 of this section; provided, that in no event shall the total authorized expenditures from any fund exceed the estimated revenues to be received plus any unencumbered balance or less any deficit estimated for the beginning of the budget year. Except as otherwise provided by law or charter, the governing body of each political subdivision shall, before the beginning of the fiscal year, approve the budget and approve or adopt such orders, motions, resolutions, or ordinances as may be required to authorize

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.
the budgeted expenditures and produce the revenues estimated in the budget.

2. The governing body of a political subdivision shall be ineligible to receive funds issued by the state if such governing body decreases the budget for its law enforcement agency by an amount exceeding more than twelve percent in relation to other items in the proposed budget.

285.800. 1. As used in this section, the following terms shall mean:

(1) "Public employee", any person employed by a public body;

(2) "Employment benefits", anything of value that an employee may receive from an employer in addition to wages and salary. This term includes, but is not limited to, health, disability, retirement, profit-sharing, and death benefits; group accidental death and dismemberment benefits; paid or unpaid days off from work for holidays, sick leave, vacation, and personal necessity; and terms of employment, attendance, or leave policies;

(3) "Political subdivision", any municipality, special district, local governmental body, county, city, town, or village.

2. Notwithstanding any other provision of law to the contrary, an employee of a political subdivision or the state of Missouri shall be ineligible for employment benefits if he or she has been convicted of section 574.040 or 574.050.

537.570. 1. Any person operating a motor vehicle who injures another person with the motor vehicle shall not be liable for any damages if, at the time of the injury:

(1) The person operating the motor vehicle was exercising due care; and
(2) The person injured was blocking traffic in a public right-of-way while participating in a protest or demonstration.

2. The provisions of this section shall not apply to any act or omission of the person operating the motor vehicle that constitutes gross negligence.

537.600. 1. Such sovereign or governmental tort immunity as existed at common law in this state prior to September 12, 1977, except to the extent waived, abrogated or modified by statutes in effect prior to that date, shall remain in full force and effect; except that, the immunity of the public entity from liability and suit for compensatory damages for negligent acts or omissions is hereby expressly waived in the following instances:

(1) Injuries directly resulting from the negligent acts or omissions by public employees arising out of the operation of motor vehicles or motorized vehicles within the course of their employment;

(2) Injuries caused by the condition of a public entity's property if the plaintiff establishes that the property was in dangerous condition at the time of the injury, that the injury directly resulted from the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of harm of the kind of injury which was incurred, and that either a negligent or wrongful act or omission of an employee of the public entity within the course of his employment created the dangerous condition or a public entity had actual or constructive notice of the dangerous condition in sufficient time prior to the injury to have taken measures to protect against the dangerous condition. In any action under this subdivision wherein a plaintiff alleges that he was damaged by the negligent,
defective or dangerous design of a highway or road, which
was designed and constructed prior to September 12, 1977,
the public entity shall be entitled to a defense which shall
be a complete bar to recovery whenever the public entity can
prove by a preponderance of the evidence that the alleged
negligent, defective, or dangerous design reasonably
complied with highway and road design standards generally
accepted at the time the road or highway was designed and
constructed;

(3) Injuries directly resulting from grossly negligent
acts or omissions by a public entity in protecting a person
or property from an unlawful assembly pursuant to section
574.040.

2. The express waiver of sovereign immunity in the
instances specified in subdivisions (1) and (2) of
subsection 1 of this section are absolute waivers of
sovereign immunity in all cases within such situations
whether or not the public entity was functioning in a
governmental or proprietary capacity and whether or not the
public entity is covered by a liability insurance for tort.

3. The term "public entity" as used in this section
shall include any multistate compact agency created by a
compact formed between this state and any other state which
has been approved by the Congress of the United States.

544.671. Notwithstanding any supreme court rule or
judicial ruling to the contrary, no defendant under a
sentence of death or imprisonment in the penitentiary for
life, or any sentence of imprisonment for a violation of
section 579.065, 565.021, or 565.050, or for a violation of
section 565.052, 574.045, 574.050, 574.055, or 574.085 in
which the victim is a law enforcement officer, firefighter,
or emergency medical service provider assaulted in the
performance of his or her official duties or as a directesult of such official duties, 565.054 in which the victim
is a law enforcement officer, firefighter, or emergency
medical service provider assaulted in the performance of his
or her official duties or as a direct result of such
official duties, section 566.030, 566.032, 566.040, 566.060,
566.062, 566.070, or 566.100, and no defendant who has pled
guilty to or been found guilty of any felony sexual offense
under chapter 566, where the victim was less than seventeen
years of age at the time the crime was committed, any sexual
offense under chapter 568, where the victim was less than
seventeen years of age at the time the crime was committed,
or any pornographic offense involving a minor as set forth
in sections 573.023, 573.025, 573.035, and 573.037, and any
felony violation of section 573.040, shall be entitled to
bail pending appeal after June 29, 1994. Pursuant to the
prerogative of the general assembly to declare the public
policy of this state in matters regarding criminal liability
of persons and to enact laws relating to judicial procedure,
the general assembly declares that subsequent to June 29,
1994, no person shall be entitled to bail or continuation of
bail pursuant to section 547.170 if that person is under a
sentence of death or imprisonment in the penitentiary for
life, or any sentence of imprisonment for a violation of
section 579.065, 565.021, or 565.050, or for a violation of
section 565.052, 574.045, 574.050, 574.055, or 574.085 in
which the victim is a law enforcement officer, firefighter,
or emergency medical service provider assaulted in the
performance of his or her official duties or as a direct
result of such official duties, 565.054 in which the victim
is a law enforcement officer, firefighter, or emergency
medical service provider assaulted in the performance of his
or her official duties or as a direct result of such official duties, section 566.030, 566.032, 566.040, 566.060, 566.062, 566.070, or 566.100, and no defendant who has pled guilty to or been found guilty of any felony sexual offense under chapter 566, where the victim was less than seventeen years of age at the time the crime was committed, any sexual offense under chapter 568, where the victim was less than seventeen years of age at the time the crime was committed, or any pornographic offense involving a minor as set forth in sections 573.023, 573.025, 573.035, and 573.037, and any felony violation of section 573.040.

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

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

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

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

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

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

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

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

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

(2) Such force is used against a person who unlawfully enters, remains after unlawfully entering, or attempts to unlawfully enter a dwelling, residence, or vehicle lawfully occupied by such person; [or]

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

(4) Such force is used against a person who is participating in an unlawful assembly pursuant to section 574.040 and unlawfully enters, remains after unlawfully entering, or attempts to unlawfully enter private property that is owned or leased by an individual, or is occupied by an individual who has been given specific authority by the property owner to occupy the property, claiming a justification of using protective force under this section.

3. A person does not have a duty to retreat:
(1) From a dwelling, residence, or vehicle where the person is not unlawfully entering or unlawfully remaining;

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

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

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

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

565.050. 1. A person commits the offense of assault in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to another person.

2. The offense of assault in the first degree is a class B felony unless in the course thereof the person inflicts serious physical injury on the victim, or if the victim of such assault is a special victim, as the term "special victim" is defined under section 565.002, in which case it is a class A felony.

3. Persons who plead guilty to or are found guilty under this section shall not be eligible for probation or parole if the victim was a law enforcement officer,
A person commits the offense of assault in the second degree if he or she:

1. Attempts to kill or knowingly causes or attempts to cause serious physical injury to another person under the influence of sudden passion arising out of adequate cause; or
2. Attempts to cause or knowingly causes physical injury to another person by means of a deadly weapon or dangerous instrument; or
3. Recklessly causes serious physical injury to another person; or
4. Recklessly causes physical injury to another person by means of discharge of a firearm.

2. The defendant shall have the burden of injecting the issue of influence of sudden passion arising from adequate cause under subdivision (1) of subsection 1 of this section.

3. The offense of assault in the second degree is a class D felony, unless the victim of such assault is a special victim, as the term "special victim" is defined under section 565.002, in which case it is a class B felony.

4. Persons who plead guilty to or are found guilty under this section shall not be eligible for probation or parole if the victim was a law enforcement officer, firefighter, or emergency medical service provider assaulted in the performance of his or her official duties or as a direct result of such official duties.

A person commits the offense of assault in the third degree if he or she knowingly causes physical injury to another person.
2. The offense of assault in the third degree is a class E felony, unless the victim of such assault is a special victim, as the term "special victim" is defined under section 565.002, in which case it is a class D felony.

3. Persons who plead guilty to or are found guilty under this section shall not be eligible for probation or parole if the victim was a law enforcement officer, firefighter, or emergency medical service provider assaulted in the performance of his or her official duties or as a direct result of such official duties.

565.091. 1. A person commits the offense of harassment in the second degree if he or she, without good cause, engages in any act with the purpose to cause emotional distress to another person, including if such person causes emotional distress to another person while participating in an unlawful assembly pursuant to section 574.040.

2. The offense of harassment in the second degree is a class A misdemeanor, unless the person has previously pleaded guilty to or been found guilty of a violation of this section, of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which if committed in this state would be chargeable or indictable as a violation of any offense listed in this subsection, in which case it is a class E felony.

3. This section shall not apply to activities of federal, state, county, or municipal law enforcement officers conducting investigations of violations of federal, state, county, or municipal law.

574.045. 1. As used in this section, the following terms mean:
(1) "Interstate highway", a highway located in this state that is included in the national system of interstate highways, as officially designated or as may be hereafter designated by the Missouri highways and transportation commission within the Missouri department of transportation and approved by the United States Secretary of Transportation;

(2) "Unlawful assembly", six or more persons who meet for the purpose of violating any of the criminal laws of this state or of the United States.

2. A person commits the offense of unlawful traffic interference if, with the intention to impede vehicular traffic, the person walks, stands, sits, kneels, lays, or places an object in such a manner as to block passage by a vehicle on any public street, highway, or interstate highway. This section shall not apply to the blocking of passage by any person who has permission to do so from a government authority, who is a law enforcement officer, or who does so to direct traffic away from hazardous road conditions, an obstacle, or a scene of an accident.

3. The offense of unlawful traffic interference on any public street, highway, or an interstate highway is a class E felony. For a first violation, the court shall grant a suspended imposition of sentence and impose a term of supervised probation for five years, one hundred hours of community service, and a fine not to exceed seven hundred fifty dollars.

4. The offense of unlawful traffic interference on any public street, highway, or interstate highway while part of an unlawful assembly is a class D felony. For a first violation, the court shall grant a suspended imposition of sentence and impose a term of supervised probation for five
years, one hundred hours of community service, and a fine not to exceed one thousand dollars.

574.050. 1. A person commits the offense of rioting if he or she knowingly assembles with six or more other persons and agrees with such persons to violate any of the criminal laws of this state or of the United States with force or violence, and thereafter, while still so assembled, does violate any of said laws with force or violence.

2. The offense of rioting is a class A misdemeanor, unless the offense is committed and such person knowingly damages property of another to an extent exceeding seven hundred fifty dollars, in which case it is a class C felony.

574.055. 1. A person commits the offense of conspiring with others to cause or produce a riot or unlawful assembly if such person knowingly provides payment or other financial incentives to six or more persons to violate the provisions of sections 574.040 and 574.050.

2. The offense of conspiring with others to cause or produce a riot or unlawful assembly is a class E felony.

574.085. 1. A person commits the offense of institutional vandalism if he or she knowingly vandalizes, defaces, or otherwise damages:

(1) Any church, synagogue or other building, structure or place used for religious worship or other religious purpose;

(2) Any cemetery, mortuary, military monument or other facility used for the purpose of burial or memorializing the dead;

(3) Any school, educational facility, community center, hospital or medical clinic owned and operated by a religious or sectarian group;
13 (4) The grounds adjacent to, and owned or rented by, any institution, facility, building, structure or place described in subdivision (1), (2), or (3) of this subsection;

(5) Any personal property contained in any institution, facility, building, structure or place described in subdivision (1), (2), or (3) of this subsection; [or]

(6) Any motor vehicle which is owned, operated, leased or under contract by a school district or a private school for the transportation of school children; or

(7) Any public monument or structure on public property owned or operated by a public entity.

2. The offense of institutional vandalism is a class A misdemeanor, unless the value of the property damage is seven hundred fifty dollars or more, in which case the offense is a class E felony; or the value of the property damage is more than five thousand dollars, in which case the offense is a class D felony; or the property is a public monument or structure on public property, in which case the offense is a class B felony.

3. In determining the amount of damage to property, for purposes of this section, damage includes the cost of repair or, where necessary, replacement of the property that was damaged.