

FIRST REGULAR SESSION

SENATE BILL NO. 66

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRATTIN.

0213S.02I

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A. Sections 67.030, 537.600, 544.671, 563.031, 2 565.050, 565.052, 565.054, 565.091, 574.050, and 574.085, RSMo, 3 are repealed and fourteen new sections enacted in lieu thereof, 4 to be known as sections 67.030, 285.800, 537.570, 537.600, 5 544.671, 563.031, 565.050, 565.052, 565.054, 565.091, 574.045, 6 574.050, 574.055, and 574.085, to read as follows:

67.030. **1.** The governing body of each political 2 subdivision may revise, alter, increase or decrease the 3 items contained in the proposed budget, subject to such 4 limitations as may be provided by law or charter **or in** 5 **subsection 2 of this section;** provided, that in no event 6 shall the total authorized expenditures from any fund exceed 7 the estimated revenues to be received plus any unencumbered 8 balance or less any deficit estimated for the beginning of 9 the budget year. Except as otherwise provided by law or 10 charter, the governing body of each political subdivision 11 shall, before the beginning of the fiscal year, approve the 12 budget and approve or adopt such orders, motions, 13 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.

14 the budgeted expenditures and produce the revenues estimated
15 in the budget.

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

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

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

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

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

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

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

4 (1) The person operating the motor vehicle was
5 exercising due care; and

6 (2) The person injured was blocking traffic in a
7 public right-of-way while participating in a protest or
8 demonstration.

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

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

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

13 (2) Injuries caused by the condition of a public
14 entity's property if the plaintiff establishes that the
15 property was in dangerous condition at the time of the
16 injury, that the injury directly resulted from the dangerous
17 condition, that the dangerous condition created a reasonably
18 foreseeable risk of harm of the kind of injury which was
19 incurred, and that either a negligent or wrongful act or
20 omission of an employee of the public entity within the
21 course of his employment created the dangerous condition or
22 a public entity had actual or constructive notice of the
23 dangerous condition in sufficient time prior to the injury
24 to have taken measures to protect against the dangerous
25 condition. In any action under this subdivision wherein a
26 plaintiff alleges that he was damaged by the negligent,

27 defective or dangerous design of a highway or road, which
28 was designed and constructed prior to September 12, 1977,
29 the public entity shall be entitled to a defense which shall
30 be a complete bar to recovery whenever the public entity can
31 prove by a preponderance of the evidence that the alleged
32 negligent, defective, or dangerous design reasonably
33 complied with highway and road design standards generally
34 accepted at the time the road or highway was designed and
35 constructed;

36 **(3) Injuries directly resulting from grossly negligent**
37 **acts or omissions by a public entity in protecting a person**
38 **or property from a unlawful assembly pursuant to section**
39 **574.040.**

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

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

544.671. Notwithstanding any supreme court rule or
2 judicial ruling to the contrary, no defendant under a
3 sentence of death or imprisonment in the penitentiary for
4 life, or any sentence of imprisonment for a violation of
5 section 579.065, 565.021, or 565.050, **or for a violation of**
6 **section 565.052, 574.045, 574.050, 574.055, or 574.085 in**
7 **which the victim is a law enforcement officer, firefighter,**
8 **or emergency medical service provider assaulted in the**

9 performance of his or her official duties or as a direct
10 result of such official duties, 565.054 in which the victim
11 is a law enforcement officer, firefighter, or emergency
12 medical service provider assaulted in the performance of his
13 or her official duties or as a direct result of such
14 official duties, section 566.030, 566.032, 566.040, 566.060,
15 566.062, 566.070, or 566.100, and no defendant who has pled
16 guilty to or been found guilty of any felony sexual offense
17 under chapter 566, where the victim was less than seventeen
18 years of age at the time the crime was committed, any sexual
19 offense under chapter 568, where the victim was less than
20 seventeen years of age at the time the crime was committed,
21 or any pornographic offense involving a minor as set forth
22 in sections 573.023, 573.025, 573.035, and 573.037, and any
23 felony violation of section 573.040, shall be entitled to
24 bail pending appeal after June 29, 1994. Pursuant to the
25 prerogative of the general assembly to declare the public
26 policy of this state in matters regarding criminal liability
27 of persons and to enact laws relating to judicial procedure,
28 the general assembly declares that subsequent to June 29,
29 1994, no person shall be entitled to bail or continuation of
30 bail pursuant to section 547.170 if that person is under a
31 sentence of death or imprisonment in the penitentiary for
32 life, or any sentence of imprisonment for a violation of
33 section 579.065, 565.021, or 565.050, **or for a violation of**
34 **section 565.052, 574.045, 574.050, 574.055, or 574.085 in**
35 **which the victim is a law enforcement officer, firefighter,**
36 **or emergency medical service provider assaulted in the**
37 **performance of his or her official duties or as a direct**
38 **result of such official duties, 565.054 in which the victim**
39 **is a law enforcement officer, firefighter, or emergency**
40 **medical service provider assaulted in the performance of his**

41 **or her official duties or as a direct result of such**
42 **official duties**, section 566.030, 566.032, 566.040, 566.060,
43 566.062, 566.070, or 566.100, and no defendant who has pled
44 guilty to or been found guilty of any felony sexual offense
45 under chapter 566, where the victim was less than seventeen
46 years of age at the time the crime was committed, any sexual
47 offense under chapter 568, where the victim was less than
48 seventeen years of age at the time the crime was committed,
49 or any pornographic offense involving a minor as set forth
50 in sections 573.023, 573.025, 573.035, and 573.037, and any
51 felony violation of section 573.040.

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

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

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

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

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

19 (2) Under the circumstances as the actor reasonably
20 believes them to be, the person whom he or she seeks to

21 protect would not be justified in using such protective
22 force;

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

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

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

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

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

43 **(4) Such force is used against a person who is**
44 **participating in an unlawful assembly pursuant to section**
45 **574.040 and unlawfully enters, remains after unlawfully**
46 **entering, or attempts to unlawfully enter private property**
47 **that is owned or leased by an individual, or is occupied by**
48 **an individual who has been given specific authority by the**
49 **property owner to occupy the property, claiming a**
50 **justification of using protective force under this section.**

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

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

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

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

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

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

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

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

11 **3. Persons who plead guilty to or are found guilty**
12 **under this section shall not be eligible for probation or**
13 **parole if the victim was a law enforcement officer,**

14 **firefighter, or emergency medical service provider assaulted**
15 **in the performance of his or her official duties or as a**
16 **direct result of such official duties.**

565.052. 1. A person commits the offense of assault
2 in the second degree if he or she:

3 (1) Attempts to kill or knowingly causes or attempts
4 to cause serious physical injury to another person under the
5 influence of sudden passion arising out of adequate cause; or

6 (2) Attempts to cause or knowingly causes physical
7 injury to another person by means of a deadly weapon or
8 dangerous instrument; or

9 (3) Recklessly causes serious physical injury to
10 another person; or

11 (4) Recklessly causes physical injury to another
12 person by means of discharge of a firearm.

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

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

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

565.054. 1. A person commits the offense of assault
2 in the third degree if he or she knowingly causes physical
3 injury to another person.

4 2. The offense of assault in the third degree is a
5 class E felony, unless the victim of such assault is a
6 special victim, as the term "special victim" is defined
7 under section 565.002, in which case it is a class D felony.

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

 565.091. 1. A person commits the offense of
2 harassment in the second degree if he or she, without good
3 cause, engages in any act with the purpose to cause
4 emotional distress to another person, **including if such**
5 **person causes emotional distress to another person while**
6 **participating in an unlawful assembly pursuant to section**
7 **574.040.**

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

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

574.045. 1. As used in this section, the following
2 **terms mean:**

3 (1) "Interstate highway", a highway located in this
4 state that is included in the national system of interstate
5 highways, as officially designated or as may be hereafter
6 designated by the Missouri highways and transportation
7 commission within the Missouri department of transportation
8 and approved by the United States Secretary of
9 Transportation;

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

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

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

30 4. The offense of unlawful traffic interference on any
31 public street, highway, or interstate highway while part of
32 an unlawful assembly is a class D felony. For a first
33 violation, the court shall grant a suspended imposition of
34 sentence and impose a term of supervised probation for five

35 **years, one hundred hours of community service, and a fine**
36 **not to exceed one thousand dollars.**

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

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

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

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

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

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

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

10 (3) Any school, educational facility, community
11 center, hospital or medical clinic owned and operated by a
12 religious or sectarian group;

13 (4) The grounds adjacent to, and owned or rented by,
14 any institution, facility, building, structure or place
15 described in subdivision (1), (2), or (3) of this subsection;

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

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

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

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

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

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