

FIRST EXTRAORDINARY SESSION OF THE
SECOND REGULAR SESSION

HOUSE BILL NO. 32

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROBERTS (77).

5840H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 563.046, RSMo, and to enact in lieu thereof one new section relating to the use of a chokehold by a law enforcement officer, with a penalty provision and an emergency clause.

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

Section A. Section 563.046, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 563.046, to read as follows: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 the arrest, or from efforts to prevent the escape from custody, of a person he or she reasonably believes to have committed an offense because of resistance or threatened resistance of the arrestee. In addition to the use of physical force authorized under other sections of this chapter, a law enforcement officer is, subject to the provisions of subsections 2 [and] , 3, **and 4 of this section**, justified in the use of such physical force as he or she reasonably believes is immediately necessary to effect the arrest or to prevent the escape from custody.

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

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

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.

- 15 (1) When deadly force is authorized under other sections of this chapter; or
16 (2) When the officer reasonably believes that such use of deadly force is immediately
17 necessary to effect the arrest or prevent an escape from custody and also reasonably believes that
18 the person to be arrested:
19 (a) Has committed or attempted to commit a felony offense involving the infliction or
20 threatened infliction of serious physical injury; or
21 (b) Is attempting to escape by use of a deadly weapon or dangerous instrument; or
22 (c) May otherwise endanger life or inflict serious physical injury to the officer or others
23 unless arrested without delay.
24 **4. In effecting an arrest or in preventing an escape from custody, a law enforcement**
25 **officer is justified in using a chokehold only when he or she reasonably believes that it is**
26 **necessary to defend himself or herself or a third person from what he or she believes to be**
27 **the use or imminent use of deadly physical force or infliction of serious physical injury.**
28 **The use of a chokehold for any other purpose shall be cause for the law enforcement**
29 **officer's immediate dismissal and revocation of his or her POST certification under**
30 **chapter 590. For purposes of this section, "chokehold" means a method by which a person**
31 **holds another person by putting his or her arm around the other person's neck with**
32 **sufficient pressure to make breathing difficult or impossible and includes, but is not limited**
33 **to, any pressure to the throat or windpipe that may prevent or hinder breathing or reduce**
34 **intake of air.**
35 **5.** The defendant shall have the burden of injecting the issue of justification under this
36 section.

Section B. Because immediate action is necessary to fight violent crime in Missouri and
2 to protect our citizens and residents from the actions of law enforcement officers that jeopardize
3 the life and safety of our citizens and residents, section A of this act is deemed necessary for the
4 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
5 to be an emergency act within the meaning of the constitution, and section A of this act shall be
6 in full force and effect upon its passage and approval.

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