

HOUSE AMENDMENT NO. ____
TO
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Offered By

AMEND House Amendment No. ____ to House Committee Substitute for Senate Substitute No. 2 for Senate Bill No. 26, Page 1, Line 4, by deleting said line and inserting in lieu thereof the following:

""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:

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

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

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

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

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

4. In effecting an arrest or in preventing an escape from custody, a law enforcement officer is justified in using a chokehold only when he or she reasonably believes that it is necessary to defend himself or herself or a third person from what he or she believes to be the use or imminent use of deadly physical force or infliction of serious physical injury. The use of a chokehold for any other purpose shall be cause for the law enforcement officer's immediate dismissal and revocation of his or her POST certification under chapter 590. For purposes of this section, "chokehold" means a method by which a person holds another person by putting his or her arm around the other person's

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1 neck with sufficient pressure to make breathing difficult or impossible and includes, but is not
2 limited to, any pressure to the throat or windpipe that may prevent or hinder breathing or reduce
3 intake of air.

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

6 566.145. 1. A person commits the offense of sexual conduct in the course of public duty if;
7 and

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9 Further amend said amendment, Page 2, Line 2, by deleting said line and inserting in lieu thereof the
10 following:

11 "restricting such person's breathing.

12 Section B. Because immediate action is necessary to fight violent crime in Missouri and to
13 protect our citizens and residents from the actions of law enforcement officers that jeopardize the
14 life and safety of our citizens and residents, section 563.046 of section A of this act is deemed
15 necessary for the immediate preservation of the public health, welfare, peace and safety, and is
16 hereby declared to be an emergency act within the meaning of the constitution, and section 563.046
17 of section A of this act shall be in full force and effect upon its passage and approval."; and"; and
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19
20 Further amend said bill by amending the title, enacting clause, and intersectional references
21 accordingly.

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23 THIS AMENDMENT AMENDS 0828H05.59H.