

FIRST REGULAR SESSION

HOUSE BILL NO. 957

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BOSLEY.

0215H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 563.046, RSMo, and to enact in lieu thereof six new sections relating to law enforcement officer accountability, with a penalty provision.

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

Section A. Section 563.046, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 563.046, 590.1065, 590.1250, 590.1252, 590.1254, and 590.1256, to read as follows: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 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

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.

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 the officer believes to**
27 **be 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.

590.1065. 1. A peace officer shall intervene to prevent or stop another peace officer
2 **from using physical force that exceeds the degree of force permitted under this chapter in**
3 **pursuance of the other peace officer's law enforcement duties in carrying out an arrest of**
4 **any person, placing any person under detention, taking any person into custody, booking**
5 **any person, or in the process of crowd or riot control without regard to chain of command.**

6 **2. A peace officer who intervenes as required under subsection 1 of this section**
7 **shall report the intervention to his or her immediate supervisor. At a minimum, the report**
8 **required under this subsection shall include:**

9 **(1) The date, time, and place of the occurrence;**

10 **(2) The identity, if known and description of the participants; and**

11 **(3) A description of the intervention actions taken.**

12

13 **Such report shall be made in writing within ten days of the occurrence of the use of such**
14 **force and shall be appended to all other reports of the incident.**

15 **3. A member of a law enforcement agency shall not discipline or retaliate in any**
16 **way against a peace officer for intervening as required under subsection 1 of this section,**
17 **reporting unconstitutional conduct, or failing to follow what the peace officer reasonably**
18 **believes is an unconstitutional directive.**

19 **4. When an internal investigation finds that a peace officer failed to intervene or**
20 **prevent the use of unlawful physical force under this section, such finding shall be**
21 **presented to the prosecuting attorney for a determination as to whether charges should be**
22 **filed. However, nothing in this subsection prohibits the prosecuting attorney from**
23 **charging a peace officer with failure to intervene before the conclusion of any internal**
24 **investigation.**

25 **5. In addition to any criminal liability and penalty, when an internal investigation**
26 **finds that a peace officer failed to intervene or prevent the use of unlawful physical force**
27 **under this section in an incident resulting in serious bodily injury or death to any person,**
28 **the peace officer's employer shall subject the peace officer to discipline, up to and including**
29 **termination, to the extent permitted under applicable constitutional and statutory law, and**
30 **the POST Commission shall revoke the peace officer's certification under chapter 590**
31 **upon receipt of notice of the peace officer's discipline. Such revocation may only be**
32 **overturned if the peace officer is exonerated by a court.**

33 **6. In a case in which the prosecution charges a peace officer with offenses related**
34 **to and based on the use of excessive force but does not file charges against any other peace**
35 **officer or officers who were at the scene during the use of force, the prosecuting attorney**
36 **shall prepare a written report explaining his or her basis for the decision not to charge any**
37 **other peace officer with criminal conduct and shall disclose the report to the public; except**
38 **that if disclosure of the report would substantially interfere with or jeopardize an ongoing**
39 **criminal investigation, the prosecuting attorney may delay public disclosure for up to forty-**
40 **five days. The prosecuting attorney shall post the written report on its website or, if it does**
41 **not have a website, make it publicly available upon request.**

42 **7. The offense of failing to intervene to prevent the use of unlawful force under this**
43 **section is considered an act of complicity and the penalty for such act shall be equal to the**
44 **penalty imposed against the peace officer who committed the original wrongdoing for**
45 **which the peace officer failed to intervene. Nothing in this subsection shall prohibit or**
46 **discourage prosecution of any other criminal offense related to failure to intervene,**
47 **including a higher charge, if supported by the evidence.**

590.1250. The provisions of sections 590.1250 to 590.1256 shall be known and may
2 **be cited as the "Law Enforcement Accountability Act".**

590.1252. 1. All peace officers in this state shall wear a video camera affixed to the peace officer's uniform while on duty. The video camera shall record each interaction between a peace officer and a member of the public. The recording shall include both audio and video.

2. Law enforcement agencies shall preserve any recordings made by a video camera under this section for a minimum of sixty days and make such recordings available to the public through a state-wide database within fourteen days of any incident.

3. The provisions of this section shall not apply to detectives or other peace officers while they are working in an undercover capacity, or to any peace officer in any situation where the wearing of such a video camera would endanger the safety of the officer or the public.

4. Law enforcement agencies shall develop policies and procedures necessary to execute the provisions of this section prior to January 1, 2022.

5. The director of the department of public safety may promulgate all necessary rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

590.1254. 1. Beginning January 1, 2022, the Missouri state highway patrol and each local law enforcement agency that employs peace officers shall report to the attorney general's office the following:

(1) All use of force by its peace officers that results in death or serious bodily injury, including:

(a) The date, time, and location of the use of force;

(b) The perceived race, ethnicity, sex, and approximate age of the person contacted, provided that the identification of these characteristics is based on the observation and perception of the peace officer making the contact and other available data;

(c) The names of all peace officers who were at the scene, identified by whether the peace officer was involved in the use of force; except that the identity of any other peace officers at the scene not directly involved in the use of force shall be identified by the officer's identification number issued by the POST Commission unless the peace officer is charged criminally or is a defendant to a civil suit arising from the use of force;

- 15 (d) The type of force used, the severity and nature of the injury, whether the peace
16 officer suffered physical injury, and the severity and nature of the peace officer's injury;
- 17 (e) Whether the peace officer was on duty at the time of the use of force;
- 18 (f) Whether a peace officer unholstered a weapon during the incident;
- 19 (g) Whether a peace officer discharged a firearm during the incident;
- 20 (h) Whether the use of force resulted in a law enforcement agency investigation and
21 the result of the investigation; and
- 22 (i) Whether the use of force resulted in a citizen complaint and the resolution of
23 that complaint;
- 24 (2) All instances when a peace officer resigned while under investigation for
25 violating department policy;
- 26 (3) All data relating to contacts conducted by its peace officers, including:
- 27 (a) The perceived race, ethnicity, sex, and approximate age of the person contacted,
28 provided that the identification of these characteristics is based on the observation and
29 perception of the peace officer making the contact and other available data;
- 30 (b) Whether the contact was a traffic stop;
- 31 (c) The time, date, and location of the contact;
- 32 (d) The duration of the contact;
- 33 (e) The reason for the contact;
- 34 (f) The suspected offense;
- 35 (g) The result of the contact, such as:
- 36 a. No action, warning, citation, property seizure, or arrest;
- 37 b. If a warning or citation was issued, the warning provided or violation cited;
- 38 c. If an arrest was made, the offense charged;
- 39 d. If the contact was a traffic stop, the information collected, which is limited to the
40 driver;
- 41 (h) The actions taken by the peace officer during the contact including, but not
42 limited to, whether:
- 43 a. The peace officer asked for consent to search the person and, if so, whether
44 consent was provided;
- 45 b. The peace officer searched the person or any property and, if so, the basis for
46 the search and the type of contraband or evidence discovered, if any;
- 47 c. The peace officer seized any property and, if so, the type of property that was
48 seized and the basis for seizing the property;
- 49 d. A peace officer unholstered a weapon during the contact; and
- 50 e. A peace officer discharged a firearm during the contact;

51 (4) All instances of unannounced entry into a residence with or without a warrant
52 including:

53 (a) The date, time, and location of the use of unannounced entry;

54 (b) The perceived race, ethnicity, sex, and approximate age of the subject of the
55 unannounced entry, provided that the identification of these characteristics is based on the
56 observation and perception of the peace officer making the entry and other available data;

57 (c) Whether a peace officer unholstered a weapon during the unannounced entry;
58 and

59 (d) Whether a peace officer discharged a firearm during the unannounced entry.

60 2. Notwithstanding any provision of law to the contrary, the data reported under
61 this section shall be made available to the public on the database established under
62 subsection 3 of this section. The Missouri state highway patrol and local law enforcement
63 agencies shall not report the name, address, Social Security number, or other unique
64 personal identifying information of the subject of the use of force, victim of the official
65 misconduct, or persons contacted, searched, or subjected to a property seizure.

66 3. The attorney general shall maintain a statewide database with data collected
67 pursuant to this section, in a searchable format, and publish the database on its website.
68 The database shall be made available to the public no later than January 1, 2022. The
69 database shall include a law enforcement identification system to track peace officer
70 complaints from one agency to another. The database shall be accessible to the public and
71 shall not require special accounts or impose fees for access to the data.

72 4. The Missouri state highway patrol and any local law enforcement agency that
73 fails to meet its reporting requirements under this section is subject to the suspension of
74 its funding by its appropriating authority.

75 5. The director of the department of public safety may promulgate all necessary
76 rules and regulations for the administration of this section. Any rule or portion of a rule,
77 as that term is defined in section 536.010, that is created under the authority delegated in
78 this section shall become effective only if it complies with and is subject to all of the
79 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536
80 are nonseverable, and if any of the powers vested with the general assembly pursuant to
81 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
82 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
83 proposed or adopted after August 28, 2021, shall be invalid and void.

 590.1256. Notwithstanding any other provision of law, if any peace officer is
2 convicted of or pleads guilty or nolo contendere to a crime involving the unlawful use or
3 threatened use of physical force, or is found civilly liable for the use of unlawful physical

4 force, the POST Commission shall revoke the peace officer's certification under this
5 chapter. The POST Commission shall not reinstate the peace officer's certification or
6 grant new certification to the peace officer unless the peace officer is exonerated by a court.
7 The POST Commission shall record each decertified peace officer in the database created
8 under section 590.1254.

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