

FIRST REGULAR SESSION

# HOUSE BILL NO. 1199

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BLAND MANLOVE.

2067H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal sections 21.750, 105.240, 542.271, 542.276, 542.291, 542.296, 544.170, 544.190, 544.200, 563.031, 563.041, 563.046, 563.051, 563.074, 566.145, 575.180, 590.010, 590.030, 590.040, 590.060, 590.080, 590.120, 590.180, and 590.195, RSMo, and to enact in lieu thereof thirty-five 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 21.750, 105.240, 542.271, 542.276, 542.291, 542.296, 544.170, 544.190, 544.200, 563.031, 563.041, 563.046, 563.051, 563.074, 566.145, 575.180, 590.010, 590.030, 590.040, 590.060, 590.080, 590.120, 590.180, and 590.195, RSMo, are repealed and thirty-five new sections enacted in lieu thereof, to be known as sections 105.240, 290.503, 542.271, 542.276, 542.291, 542.296, 544.170, 544.190, 544.200, 563.031, 563.041, 563.046, 563.074, 566.145, 574.055, 575.180, 590.010, 590.030, 590.040, 590.060, 590.080, 590.120, 590.180, 590.195, 590.230, 590.510, 590.511, 590.520, 590.651, 590.652, 590.654, 590.655, 590.656, 590.1035, and 650.467, to read as follows:

105.240. Every officer may break open doors and enclosures to execute a warrant or other process for the arrest of any person, or to levy an execution, or execute an order for the delivery of personal property, if, upon public demand and an announcement of his official character, they be not opened. **Any search warrant, issued by a judge and executed upon a premises, that does not require those executing the warrant to knock may be used only with reasonable suspicion that the alleged perpetrator of a violent felony offense will escape or cause bodily harm to others.**

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.

**290.503. 1. This section shall be known and may be cited as "The Blue Pay Fairness Act".**

**2. Every peace officer, as defined in section 590.010, who is certified by the peace officer standards and training commission and employed in a county with a charter form of government and with more than nine hundred fifty thousand inhabitants shall be paid wages for work as a peace officer in such county at the rate of twenty dollars per hour, or wages at the same rate or rates set under the provisions of federal law as the prevailing federal minimum wage applicable to those covered jobs in interstate commerce, whichever rate per hour is higher.**

542.271. 1. A warrant may be issued to search for and seize, or photograph, copy or record any of the following:

(1) Property, article, material, or substance that constitutes evidence of the commission of a criminal offense; or

(2) Property which has been stolen or acquired in any other manner declared an offense by chapters 569 and 570; or

(3) Property owned by any person furnishing public communications services to the general public subject to the regulations of the public service commission if such person has failed to remove the property within a reasonable time after receipt of a written notice from a peace officer stating that such property is being used as an instrumentality in the commission of an offense; or

(4) Property for which possession is an offense under the law of this state; or

(5) Property for which seizure is authorized or directed by any statute of this state; or

(6) Property which has been used by the owner or used with his acquiescence or consent as a raw material or as an instrument to manufacture or produce any thing for which possession is an offense under the laws of this state.

2. A warrant may be issued to search for and rescue a kidnapped person.

3. A warrant may be issued to search for any person for whom a valid felony arrest warrant is outstanding.

4. A warrant may be issued to search for and seize any deceased human fetus or corpse, or part thereof.

**5. Any search warrant, issued by a judge and executed upon a premises, that does not require those executing the warrant to knock may be used only with reasonable suspicion that the alleged perpetrator of a violent felony offense will escape or cause bodily harm to others.**

26           **6.** The provisions of sections 542.261 to 542.296 and section 542.301 shall prevail over  
27 any rules and regulations promulgated by any state governmental agency, commission or board,  
28 to the contrary notwithstanding.

          542.276. 1. Any peace officer or prosecuting attorney may make application under  
2 section 542.271 for the issuance of a search warrant.

3           2. The application shall:

4           (1) Be in writing;

5           (2) State the time and date of the making of the application;

6           (3) Identify the property, article, material, substance or person which is to be searched  
7 for and seized, in sufficient detail and particularity that the officer executing the warrant can  
8 readily ascertain it;

9           (4) Identify the person, place, or thing which is to be searched, in sufficient detail and  
10 particularity that the officer executing the warrant can readily ascertain whom or what he or she  
11 is to search;

12           (5) State facts sufficient to show probable cause for the issuance of a search warrant;

13           (6) Be verified by the oath or affirmation of the applicant;

14           (7) Be filed in the proper court;

15           (8) Be signed by the prosecuting attorney of the county where the search is to take place,  
16 or his or her designated assistant.

17           3. The application may be supplemented by a written affidavit verified by oath or  
18 affirmation. Such affidavit shall be considered in determining whether there is probable cause  
19 for the issuance of a search warrant and in filling out any deficiencies in the description of the  
20 person, place, or thing to be searched or of the property, article, material, substance, or person  
21 to be seized. Oral testimony shall not be considered. The application may be submitted by  
22 facsimile or other electronic means.

23           4. The judge shall determine whether sufficient facts have been stated to justify the  
24 issuance of a search warrant. If it appears from the application and any supporting affidavit that  
25 there is probable cause to believe that property, article, material, substance, or person subject to  
26 seizure is on the person or at the place or in the thing described, a search warrant shall  
27 immediately be issued. The warrant shall be issued in the form of an original and two copies.

28           **5. Any search warrant, issued by a judge and executed upon a premises, that does**  
29 **not require those executing the warrant to knock may be used only with reasonable**  
30 **suspicion that the alleged perpetrator of a violent felony offense will escape or cause bodily**  
31 **harm to others.**

32           **6.** The application and any supporting affidavit and a copy of the warrant shall be  
33 retained in the records of the court from which the warrant was issued.

34       ~~[6.]~~ 7. The search warrant shall:

35       (1) Be in writing and in the name of the state of Missouri;

36       (2) Be directed to any peace officer in the state;

37       (3) State the time and date the warrant is issued;

38       (4) Identify the property, article, material, substance or person which is to be searched  
39 for and seized, in sufficient detail and particularity that the officer executing the warrant can  
40 readily ascertain it;

41       (5) Identify the person, place, or thing which is to be searched, in sufficient detail and  
42 particularity that the officer executing the warrant can readily ascertain whom or what he or she  
43 is to search;

44       (6) Command that the described person, place, or thing be searched and that any of the  
45 described property, article, material, substance, or person found thereon or therein be seized or  
46 photographed or copied and within ten days after filing of the application, any photographs or  
47 copies of the items may be filed with the issuing court;

48       (7) Be signed by the judge, with his or her title of office indicated.

49       ~~[7.]~~ 8. A search warrant issued under this section may be executed only by a peace  
50 officer. The warrant shall be executed by conducting the search and seizure commanded. The  
51 search warrant issued under this section may be issued by facsimile or other electronic means.

52       ~~[8.]~~ 9. A search warrant shall be executed as soon as practicable and shall expire if it is  
53 not executed and the return made within ten days after the date of the making of the application.  
54 A search and any subsequent searches of the contents of any property, article, material, or  
55 substance seized and removed from the location of the execution of any search warrant during  
56 its execution may be conducted at any time during or after the execution of the warrant, subject  
57 to the continued existence of probable cause to search the property, article, material, or substance  
58 seized and removed. A search and any subsequent searches of the property, article, material, or  
59 substance seized and removed may be conducted after the time for delivering the warrant, return,  
60 and receipt to the issuing judge has expired. A supplemental return and receipt shall be delivered  
61 to the issuing judge upon final completion of any search which concludes after the expiration of  
62 time for delivering the original return and receipt.

63       ~~[9.]~~ 10. After execution of the search warrant, the warrant with a return thereon, signed  
64 by the officer making the search, shall be delivered to the judge who issued the warrant. The  
65 return shall show the date and manner of execution, what was seized, and the name of the  
66 possessor and of the owner, when he or she is not the same person, if known. The return shall  
67 be accompanied by a copy of the itemized receipt required by ~~[subsection 6 of]~~ section 542.291.  
68 The judge or clerk shall, upon request, deliver a copy of such receipt to the person from whose  
69 possession the property was taken and to the applicant for the warrant.

- 70       ~~[10.]~~ 11. A search warrant shall be deemed invalid:
- 71       (1) If it was not issued by a judge; or
- 72       (2) If it was issued without a written application having been filed and verified; or
- 73       (3) If it was issued without probable cause; or
- 74       (4) If it was not issued in the proper county; or
- 75       (5) If it does not describe the person, place, or thing to be searched or the property,
- 76 article, material, substance, or person to be seized with sufficient certainty; or
- 77       (6) If it is not signed by the judge who issued it; or
- 78       (7) If it was not executed within the time prescribed by subsection 8 of this section.
- 79       ~~[11.]~~ 12. The application or execution of a search warrant shall not be deemed invalid
- 80 for the sole reason that the application or execution of the warrant relies upon electronic
- 81 signatures of the peace officer or prosecutor seeking the warrant or judge issuing the warrant.

542.291. 1. The search shall be conducted in a reasonable manner. The search may be

2 made at night if making it during the daytime is not practicable. **Notwithstanding any other**

3 **provision of law to the contrary, a search is not conducted in a reasonable manner if the**

4 **search is conducted without the officer knocking and providing notice of his or her**

5 **authority and purpose unless the officer has a reasonable suspicion that the alleged**

6 **perpetrator of a violent felony offense will escape or cause bodily harm to others.**

7       2. An officer making a search pursuant to an invalid warrant, the invalidity of which is

8 not apparent on its face, may use such force as he would be justified in using if the warrant were

9 valid. **A warrant is invalid on its face if it authorizes or implicitly authorizes peace officers**

10 **to execute such warrant without knocking and providing notice of their authority and**

11 **purpose. A peace officer may still execute a search warrant that authorizes or implicitly**

12 **authorizes him or her to execute a search without knocking and providing notice of his or**

13 **her authority and purpose, but, pursuant to subsection 1 of this section, such officer shall**

14 **knock and provide notice of his or her authority and purpose unless the officer has a**

15 **reasonable suspicion that the alleged perpetrator of a violent felony offense will escape or**

16 **cause bodily harm to others.**

17       3. The officer may summon as many persons as he deems necessary to assist him in

18 executing the warrant. Such persons shall not be held liable as a result of the illegality of the

19 search and seizure.

20       4. If any property is seized, the officer shall give to the person from whose possession

21 it is taken, if he is present, a copy of the warrant and an itemized receipt of the property taken.

22 If no person is present, the officer shall leave the copy and the receipt at the site of the search.

23           5. A copy of the itemized receipt of any property taken shall be delivered to the office  
24 of the prosecuting attorney in the county where the property was taken within two working days  
25 of the search.

          542.296. 1. A person aggrieved by an unlawful seizure made by an officer and against  
2 whom there is a pending criminal proceeding growing out of the subject matter of the seizure  
3 may file a motion to suppress the use in evidence of the property or matter seized. For the  
4 purposes of this section, a pending criminal proceeding shall mean any criminal investigation  
5 being conducted with the intention of using the seized subject matter in seeking an indictment  
6 or information or when an information has been issued or an indictment returned.

7           2. The motion to suppress shall be in writing. It shall be filed with the court in which  
8 there is pending against the moving party a criminal proceeding growing out of the subject matter  
9 of the seizure.

10          3. The motion shall be made before the commencement of the trial of the moving party  
11 on the charge arising out of the seizure unless he was unaware of the grounds or had no  
12 opportunity to do so before the trial. In that event the motion may be made during the trial.  
13 However, the trial judge may in his discretion entertain a motion any time during trial.

14          4. Notice shall be given to the prosecuting attorney of the date, time, place and nature  
15 of the hearing.

16          5. The motion to suppress may be based upon any one or more of the following grounds:

17           (1) That the search and seizure were made without warrant and without lawful authority;

18           (2) That the warrant was improper upon its face or was illegally issued, including the  
19 issuance of a warrant without proper showing of probable cause;

20           (3) That the property seized was not that described in the warrant and that the officer was  
21 not otherwise lawfully privileged to seize the same;

22           (4) That the warrant was illegally executed by the officer, **including that it was**  
23 **executed without the officer knocking and providing notice of his or her authority and**  
24 **purpose;**

25           (5) That in any other manner the search and seizure violated the rights of the movant  
26 under Section 15 of Article I of the Constitution of Missouri, or the fourth and fourteenth  
27 amendments of the Constitution of the United States.

28          6. The judge shall receive evidence on any issue of fact necessary to the decision of the  
29 motion. The burden of going forward with the evidence and the risk of nonpersuasion shall be  
30 upon the state to show by a preponderance of the evidence that the motion to suppress should be  
31 overruled.

32           7. If the motion is sustained, the judge shall order the property or matter delivered to the  
33 moving party, unless its retention is authorized or required by section 542.301, or by any other  
34 law of this state.

544.170. 1. All persons arrested and confined in any jail or other place of confinement  
2 by any peace officer, without warrant or other process, for any alleged breach of the peace or  
3 other criminal offense, or on suspicion thereof, shall be discharged from said custody within  
4 twenty-four hours from the time of such arrest, unless they shall be charged with a criminal  
5 offense by the oath of some credible person, and be held by warrant to answer to such offense.

6           2. In any confinement to which the provisions of this section apply, the confinee shall  
7 be permitted at any reasonable time to consult with counsel or other persons acting on the  
8 confinee's behalf.

9           3. Any person who violates the provisions of this section, by refusing to release any  
10 person who is entitled to release pursuant to this section, or by refusing to permit a confinee to  
11 consult with counsel or other persons, or who transfers any such confinees to the custody or  
12 control of another, or to another place, or who falsely charges such person, with intent to avoid  
13 the provisions of this section, is guilty of a class A misdemeanor.

14           **4. Notwithstanding the provisions of subsection 1 of this section to the contrary, all**  
15 **persons arrested and confined in any jail or other place of confinement by any peace**  
16 **officer, without warrant or other process, for a criminal offense involving a dangerous**  
17 **felony or deadly weapon as defined in section 556.061, or on suspicion thereof, shall be**  
18 **discharged from said custody within forty-eight hours from the time of such arrest, unless**  
19 **they shall be charged with a criminal offense by the oath of some credible person, and be**  
20 **held by warrant to answer to such offense.**

544.190. ~~[If, after notice of the intention to arrest the defendant, he either flee or forcibly~~  
2 ~~resist, the]~~

3           **1. An officer ~~[may use all necessary means]~~ shall not use deadly force to effect [the]**  
4 **an arrest unless:**

5           **(1) A person is displaying aggravated aggressive resistance, thereby leading the**  
6 **officer to an objectively reasonable belief that the person poses an imminent threat of death**  
7 **or serious physical injury to the officer or others, or such force is necessary to prevent**  
8 **escape of a person who the officer has reasonable grounds to believe committed or**  
9 **attempted to commit a violent felony where the officer has probable cause to believe that**  
10 **the suspect poses a threat of immediate, serious physical injury either to the officer or**  
11 **others; and**

12           (2) The officer first used less intrusive or physically harmful methods to control the  
13 person and such methods were ineffective or the officer reasonably determines such  
14 methods would be ineffective.

15           2. (1) Officers shall receive training on opportunities to employ tactical retreat,  
16 withdrawal, and other de-escalation techniques to increase incident resolution options and  
17 enhance officer safety; and

18           (2) Law enforcement agencies shall publicly share use-of-force policies and report  
19 all instances of deadly force to the attorney general for annual publication.

20           3. (1) Prior to using force to effect an arrest, officers shall:

21           (a) Identify themselves as officers before using force when safely possible;

22           (b) Permit individuals the opportunity to submit to arrest before force is used  
23 whenever possible; and

24           (c) Communicate, when possible and appropriate, to the individual and other  
25 officers that the use of the weapon is imminent in order to allow the individual an  
26 opportunity to comply; and

27           (2) In determining whether the use of force is necessary and reasonable to effect an  
28 arrest, an officer shall consider whether a person may be noncompliant due to a medical  
29 or mental health condition, mental health crisis, physical or hearing impairment, language  
30 barrier, or drug interaction. When noncompliance appears to be due to such a condition,  
31 an officer shall be trained and required to employ de-escalation tactics and techniques.

32           4. Use of force to effect an arrest shall be prohibited when:

33           (1) A person is restrained, such as when handcuffed or contained in a police  
34 vehicle;

35           (2) A person only verbally confronts an officer;

36           (3) Used as a retaliatory force against a person by an officer when use of such force  
37 is not reasonably necessary to effect the arrest;

38           (4) Used to punish a person for fleeing or otherwise resisting arrest;

39           (5) Used in response to an expression of criticism or disrespect for an officer or any  
40 other person;

41           (6) Used against a person who may be observing or recording officer behavior; or

42           (7) Used to effect compliance with a command that is unlawful unless:

43           (a) Necessary to prevent imminent or ongoing injury to any person; or

44           (b) A person is refusing to get out of a law enforcement vehicle, reasonable attempts  
45 to gain voluntary compliance have failed, and a supervisor has approved the use of force  
46 to remove such person.

47           5. Immediately following any arrest in which force was used, an officer shall:



48           (1) Inspect the person for injury or complaints of pain resulting from the use of  
49 force;

50           (2) Render medical assistance, including emergency care, for any person who  
51 exhibits signs of physical distress, has sustained a visible injury, expresses a complaint of  
52 injury or continuing pain, or was rendered unconscious, including providing first aid until  
53 professional medical care providers arrive on the scene;

54           (3) Handcuff a person only when, based on the totality of the circumstances, the  
55 officer reasonably believes such person remains an imminent physical threat; and

56           (4) Ensure the person arrested is not restrained in a manner that compromises the  
57 ability of such person to breathe.

58           6. (1) If a person is killed or seriously injured by an officer during an arrest, the  
59 law enforcement agency shall provide the family of such person with all information the  
60 agency can reasonably share regarding the incident and information relating to available  
61 counseling services.

62           (2) The law enforcement agency may keep the family from the seriously injured or  
63 killed person as necessary to protect the integrity of the scene provided that the law  
64 enforcement agency gives the family the rationale for such exclusion.

65           (3) Family members shall not be restrained unless necessary to protect the integrity  
66 of the scene.

544.200. To make an arrest in criminal actions, the officer may break open any outer or  
2 inner door or window of a dwelling house or other building, or any other enclosure, if, after  
3 notice of his office and purpose, he be refused admittance. **Any search warrant, issued by a**  
4 **judge and executed upon a premises, that does not require those executing the warrant to**  
5 **knock may be used only with reasonable suspicion that the suspect of a violent felony**  
6 **offense will escape or cause bodily harm to others.**

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

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

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

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

11 563.046; or

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

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

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

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

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

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

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

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

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

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

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

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

39 **5. If an individual is justified in using physical force under this section, that**  
40 **individual also shall be justified in detaining the aggressor until the arrival of a law**  
41 **enforcement officer. However, if the aggressor flees, whether before or after being**  
42 **detained, the individual shall not be justified in pursuing the aggressor and shall be denied**  
43 **the defense available in section 563.074 with respect to any force used against the aggressor**  
44 **during or after pursuit of such aggressor.**

45 6. The defendant shall have the burden of injecting the issue of justification under this  
46 section. If a defendant asserts that his or her use of force is described under subdivision (2) of  
47 subsection 2 of this section, the burden shall then be on the state to prove beyond a reasonable

48 doubt that the defendant did not reasonably believe that the use of such force was necessary to  
49 defend against what he or she reasonably believed was the use or imminent use of unlawful  
50 force.

563.041. 1. A person may, subject to the limitations of subsection 2 **of this section**, use  
2 physical force upon another person when and to the extent that he or she reasonably believes it  
3 necessary to prevent what he or she reasonably believes to be the commission or attempted  
4 commission by such person of stealing, property damage or tampering in any degree.

5 2. A person may use deadly force under circumstances described in subsection 1 **of this**  
6 **section** only when such use of deadly force is authorized under other sections of this chapter.

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

10 4. An armed nuclear security guard may use the following levels of physical force  
11 against another person at a nuclear power plant or within a structure or fenced yard of a nuclear  
12 power plant if the armed nuclear security guard reasonably believes that such force is necessary:

13 (1) An armed nuclear security guard may use physical force, as he or she reasonably  
14 believes is immediately necessary, up to and including deadly physical force to:

15 (a) Prevent an action that would constitute murder in the first or second degree under  
16 section 565.020 or 565.021;

17 (b) Prevent an action that would constitute voluntary manslaughter under section  
18 565.023;

19 (c) Prevent an action that would constitute assault in the first or second degree under  
20 section 565.050 or 565.052; or

21 (d) Defend himself, herself, or a third person from the use or imminent use of deadly  
22 physical force;

23 (2) An armed nuclear security guard may use physical force, as he or she reasonably  
24 believes is immediately necessary, up to but not including deadly physical force to prevent an  
25 action that would constitute:

26 (a) Assault in the third or fourth degree under section 565.054 or 565.056;

27 (b) Kidnapping in the first, second, or third degree under section 565.110, 565.120, or  
28 565.130;

29 (c) Burglary in the first or second degree under section 569.160 or 569.170;

30 (d) Arson in the first, second, or third degree under section 569.040, 569.050, or  
31 569.053;

32 (e) Property damage in the first degree under section 569.100;

33 (f) Robbery in the first or second degree under section 570.023 or 570.025;

34 (g) Armed criminal action under section 571.015; or

35 (h) Trespass in the first degree under section 569.140;

36 (3) An armed nuclear security guard is justified in threatening to use physical force or  
37 deadly physical force if and to the extent a reasonable armed nuclear security guard believes it  
38 necessary to protect himself, herself, or others against another person's potential use of physical  
39 force or deadly physical force.

40 5. Notwithstanding any provisions of section 563.016 to the contrary, an armed nuclear  
41 security guard, employer of an armed nuclear security guard, or owner of a nuclear power plant  
42 shall not be subject to civil liability for conduct of an armed nuclear security guard that is  
43 permitted by this section.

44 6. **If an individual is justified in using physical force under this section, that**  
45 **individual also shall be justified in detaining the aggressor until the arrival of a law**  
46 **enforcement officer. However, if the aggressor flees, whether before or after being**  
47 **detained, the individual shall not be justified in pursuing the aggressor and shall be denied**  
48 **the defense available in section 563.074 with respect to any force used against the aggressor**  
49 **during or after pursuit of such aggressor.**

50 7. The defendant shall have the burden of injecting the issue of justification under this  
51 section.

563.046. 1. A law enforcement officer need not retreat or desist from efforts to effect  
2 the arrest, or from efforts to prevent the escape from custody, of a person he or she reasonably  
3 believes to have committed an offense because of resistance or threatened resistance of the  
4 arrestee. In addition to the use of physical force authorized under other sections of this chapter,  
5 a law enforcement officer is, subject to **section 544.190 and** the provisions of subsections 2  
6 ~~[and]~~ , 3, 4, and 5 of this section, justified in the use of such physical force as he or she  
7 reasonably believes is immediately necessary to effect the arrest or to prevent the escape from  
8 custody.

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

14 3. **The use of a carotid restraint or chokehold in making an arrest, as such terms**  
15 **are defined in section 590.010, is not justified under this section unless the use of deadly**  
16 **force is lawful under subsection 4 of this section.**

17 4. In effecting an arrest or in preventing an escape from custody, a law enforcement  
18 officer is justified in using deadly force only **when all other reasonable means of**

19 apprehension have been exhausted or are unavailable, the officer has given notice of the  
20 officer's identity as law enforcement and a warning that deadly force may be used unless  
21 resistance or flight ceases, and the law enforcement officer reasonably believes, based on  
22 the totality of the circumstances, that such force is necessary:

23 (1) ~~[When deadly force is authorized under other sections of this chapter]~~ **To protect the**  
24 **law enforcement officer or another from imminent death or great bodily harm; or**

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

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

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

31 ~~—— (c) May otherwise endanger life or inflict serious physical injury to the officer or others~~  
32 ~~unless arrested without delay]~~ **To effect the arrest or capture of a person who the law**

33 **enforcement officer knows or has reasonable grounds to believe has committed or**  
34 **attempted to commit a felony offense involving the infliction or threatened infliction of**  
35 **serious physical injury and the officer reasonably believes that the person will cause death**  
36 **or great bodily harm to another person unless immediately apprehended.**

37 **5. A law enforcement officer shall not use deadly force against a person based on**  
38 **the danger the person poses to the law enforcement officer if an objectively reasonable law**  
39 **enforcement officer would believe the person does not pose an imminent threat of death**  
40 **or great bodily harm to the law enforcement officer or to another person.**

41 **6. When a law enforcement officer uses deadly force against an unarmed person**  
42 **who is at a distance of twenty feet or greater from the officer thereby posing no imminent**  
43 **danger to the officer, the officer shall be immediately suspended and removed from duty,**  
44 **without pay, until a full investigation of the incident has been completed.**

45 ~~[4.] 7. The defendant shall have the burden of injecting the issue of justification under~~  
46 ~~this section.~~

47 **8. A law enforcement officer shall have the duty at any scene where physical force**  
48 **is being applied to either stop, or attempt to stop, another officer when force is**  
49 **inappropriately applied or is no longer required.**

50 **9. (1) A law enforcement officer who purposefully allows a fellow officer to use**  
51 **inappropriate or excessive force, including the use of a carotid restraint or chokehold, may**  
52 **be prosecuted for failure to intervene.**

53 **(2) Such failure to intervene shall be a class E felony if it is proven the defendant**  
54 **officer was aware of the other officer's violation and chose not to intervene.**

563.074. 1. Notwithstanding the provisions of section 563.016, a person who uses force as described in sections 563.031, 563.041, 563.046, ~~563.051,~~ 563.056, and 563.061 is justified in using such force and such fact shall be an absolute defense to criminal prosecution or civil liability.

2. The court shall award attorney's fees, court costs, and all reasonable expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant has an absolute defense as provided in ~~subsection 1 of this section~~ **sections 563.031, 563.041, 563.056, and 563.061.**

566.145. 1. A person commits the offense of sexual conduct **in the course of public duty if the person engages in sexual conduct** with a **detainee**, a prisoner, or an offender ~~if he or she~~ **and the person:**

(1) Is an employee of, or assigned to work in, any jail, prison or correctional facility and engages in sexual conduct with a prisoner or an offender who is confined in a jail, prison, or correctional facility; ~~or~~

(2) Is a probation and parole officer and engages in sexual conduct with an offender who is under the direct supervision of the officer; **or**

**(3) Is a police officer and engages in sexual conduct with a detainee or prisoner who is in the custody of such officer.**

2. For the purposes of this section the following terms shall mean:

(1) **"Detainee", a person held in custody or confinement;**

(2) "Offender", includes any person in the custody of a prison or correctional facility and any person who is under the supervision of the state board of probation and parole;

~~(2)~~ (3) "Prisoner", includes any person who is in the custody of a jail, whether pretrial or after disposition of a charge.

3. The offense of sexual conduct ~~[with a prisoner or offender]~~ **in the course of public duty** is a class E felony.

4. Consent of a **detainee**, a prisoner, or an offender is not a defense.

**574.055. 1. A law enforcement agency, when using chemical agents, shall:**

(1) **Use chemical agents only after a person has caused or attempted to cause serious physical injury to another person, and shall use only the chemical agents on that person;**

(2) **Provide a warning before deploying chemical agents by issuing at least one clearly audible and understandable warning with an amplification system or device prior to the use of such chemical agent, and the warning shall state:**

(a) **Where chemical agents will be deployed;**

- 9           (b) How much time individuals have to leave the area or stop the unlawful, violent  
10 behavior;
- 11           (c) What exit route a person may follow to leave the area; and
- 12           (d) Consequences of failing to comply; and
- 13           (3) Require law enforcement officers to wear badges affixed to a uniform or helmet  
14 in a manner that is visible to the public even if officers are wearing riot gear.
- 15           2. A law enforcement agency, when using chemical agents, shall not:
- 16           (1) Use chemical agents against individuals or groups who fail to disperse and have  
17 not caused or attempted to cause serious physical injury to another person;
- 18           (2) Use chemical agents on a person who is restrained;
- 19           (3) Block any route of egress prior to the deployment of chemical agents;
- 20           (4) Prevent or retaliate against any person who lawfully exercises his or her right  
21 to witness, observe, record, livestream, or protest police activity; or
- 22           (5) Establish an emergency area or zone by using a police line to encircle or  
23 substantially encircle a demonstration, rally, parade, march, picket line, or other similar  
24 assembly conducted for the purpose of people expressing political, social, or religious views  
25 unless there is probable cause to believe that a significant number or percentage of people  
26 located in an area or zone have committed unlawful acts and law enforcement officers may  
27 lawfully arrest such people.

- 575.180. 1. A law enforcement officer commits the offense of failure to execute an  
2 arrest warrant if, with the purpose of allowing any person charged with or convicted of a crime  
3 to escape, he or she fails to execute any arrest warrant, capias, or other lawful process ordering  
4 apprehension or confinement of such person, which he or she is authorized and required by law  
5 to execute. **For purposes of this section, "escape" means to flee from, to avoid, or to get**  
6 **away, as to flee to avoid arrest.**
- 7           2. The offense of failure to execute an arrest warrant is a class A misdemeanor, unless  
8 the offense involved is a felony, in which case failure to execute an arrest warrant is a class E  
9 felony.
- 10           3. It shall be an affirmative defense to prosecution under this section that the law  
11 enforcement officer acted under exigent circumstances in failing to execute an arrest  
12 warrant on a person who has committed a misdemeanor offense under chapter 301, 302,  
13 304, or 307 or a misdemeanor traffic offense in another state; except that, the provisions  
14 of this subsection shall not apply to the following offenses:
- 15           (1) Failure to drive in a careful and prudent manner under section 304.012;
- 16           (2) Driving with a cancelled, suspended, or revoked license under section 302.321;
- 17           (3) Operating a motor vehicle without a proper license under section 302.020; or

18           **(4) Any offense committed in another state that is comparable to an offense listed**  
19 **under subdivision (1), (2), or (3) of this subsection.**

590.010. As used in this chapter, the following terms mean:

2           **(1) "Carotid restraint", the use of any body part or object to attempt to control or**  
3 **disable a person by applying pressure to the person's neck, including the trachea or carotid**  
4 **artery, with the purpose, intent, or effect of controlling or restricting the person's**  
5 **movement or restricting the person's blood flow or breathing;**

6           **(2) "Chokehold", the prolonged application of force to a person's throat or**  
7 **windpipe that prevents or hinders breathing or reduces the intake of air;**

8           **(3) "Commission", when not obviously referring to the POST commission, means a grant**  
9 **of authority to act as a peace officer;**

10          ~~[(2)]~~ **(4) "Director", the director of the Missouri department of public safety or his or**  
11 **her designated agent or representative;**

12          ~~[(3)]~~ **(5) "Peace officer", a law enforcement officer of the state or any political**  
13 **subdivision of the state with the power of arrest for a violation of the criminal code or declared**  
14 **or deemed to be a peace officer by state statute;**

15          ~~[(4)]~~ **(6) "POST commission", the peace officer standards and training commission;**

16          ~~[(5)]~~ **(7) "Reserve peace officer", a peace officer who regularly works less than thirty**  
17 **hours per week;**

18          ~~[(6)]~~ **(8) "School protection officer", an elementary or secondary school teacher or**  
19 **administrator who has been designated as a school protection officer by a school district;**

20          **(9) "Security guard", any person who is paid to protect the person or property of**  
21 **another, but shall not include law enforcement officers or any other public official or**  
22 **employee.**

590.030. 1. The POST commission shall establish minimum standards for the basic  
2 training of peace officers. Such standards may vary for each class of license established pursuant  
3 to subsection 2 of section 590.020.

4          2. **The director shall review the basic training materials, licenses of law**  
5 **enforcement basic training centers, and basic training instructors of the POST commission.**  
6 **Such training materials shall require de-escalation training for peace officers and training**  
7 **on community policing practices. The director shall establish standards regarding de-**  
8 **escalation training and training on community policing practices. The director shall**  
9 **conduct an initial review by December 31, 2021. The director shall establish a review**  
10 **schedule on a three-year rotational basis.**

11          3. The director shall establish minimum age, citizenship, and general education  
12 requirements and may require a qualifying score on a certification examination as conditions of



13 eligibility for a peace officer license. Such general education requirements shall require  
14 completion of a high school program of education under chapter 167 or obtainment of a General  
15 Educational Development (GED) certificate.

16 ~~[3-]~~ 4. The director shall provide for the licensure, with or without additional basic  
17 training, of peace officers possessing credentials by other states or jurisdictions, including federal  
18 and military law enforcement officers.

19 ~~[4-]~~ 5. The director shall establish a procedure for obtaining a peace officer license and  
20 shall issue the proper license when the requirements of this chapter have been met.

21 ~~[5-]~~ 6. As conditions of licensure, all licensed peace officers shall:

22 (1) Obtain continuing law enforcement education pursuant to rules to be promulgated  
23 by the POST commission; and

24 (2) Maintain a current address of record on file with the director.

25 ~~[6-]~~ 7. A peace officer license shall automatically expire if the licensee fails to hold a  
26 commission as a peace officer for a period of five consecutive years, provided that the POST  
27 commission shall provide for the relicensure of such persons and may require retraining as a  
28 condition of eligibility for relicensure, and provided that the director may provide for the  
29 continuing licensure, subject to restrictions, of persons who hold and exercise a law enforcement  
30 commission requiring a peace officer license but not meeting the definition of a peace officer  
31 pursuant to this chapter.

590.040. 1. The POST commission shall set the minimum number of hours of basic  
2 training for licensure as a peace officer no lower than four hundred seventy and no higher than  
3 six hundred, with the following exceptions:

4 (1) Up to one thousand hours may be mandated for any class of license required for  
5 commission by a state law enforcement agency;

6 (2) As few as one hundred twenty hours may be mandated for any class of license  
7 restricted to commission as a reserve peace officer with police powers limited to the  
8 commissioning political subdivision;

9 (3) Persons validly licensed on August 28, 2001, may retain licensure without additional  
10 basic training;

11 (4) Persons licensed and commissioned within a county of the third classification before  
12 July 1, 2002, may retain licensure with one hundred twenty hours of basic training if the  
13 commissioning political subdivision has adopted an order or ordinance to that effect;

14 (5) Persons serving as a reserve officer on August 27, 2001, within a county of the first  
15 classification or a county with a charter form of government and with more than one million  
16 inhabitants on August 27, 2001, having previously completed a minimum of one hundred sixty  
17 hours of training, shall be granted a license necessary to function as a reserve peace officer only

18 within such county. For the purposes of this subdivision, the term "reserve officer" shall mean  
19 any person who serves in a less than full-time law enforcement capacity, with or without pay and  
20 who, without certification, has no power of arrest and who, without certification, must be under  
21 the direct and immediate accompaniment of a certified peace officer of the same agency at all  
22 times while on duty; and

23 (6) The POST commission shall provide for the recognition of basic training received  
24 at law enforcement training centers of other states, the military, the federal government and  
25 territories of the United States regardless of the number of hours included in such training and  
26 shall have authority to require supplemental training as a condition of eligibility for licensure.

27 2. The director shall have the authority to limit any exception provided in subsection 1  
28 of this section to persons remaining in the same commission or transferring to a commission in  
29 a similar jurisdiction.

30 3. The basic training of every peace officer, except agents of the conservation  
31 commission, shall include at least thirty hours of training in the investigation and management  
32 of cases involving domestic and family violence. Such training shall include instruction, specific  
33 to domestic and family violence cases, regarding: report writing; physical abuse, sexual abuse,  
34 child fatalities and child neglect; interviewing children and alleged perpetrators; the nature,  
35 extent and causes of domestic and family violence; the safety of victims, other family and  
36 household members and investigating officers; legal rights and remedies available to victims,  
37 including rights to compensation and the enforcement of civil and criminal remedies; services  
38 available to victims and their children; the effects of cultural, racial and gender bias in law  
39 enforcement; and state statutes. Said curriculum shall be developed and presented in  
40 consultation with the department of health and senior services, the children's division, public and  
41 private providers of programs for victims of domestic and family violence, persons who have  
42 demonstrated expertise in training and education concerning domestic and family violence, and  
43 the Missouri coalition against domestic violence.

44 **4. The basic training of every peace officer, except agents of the conservation**  
45 **commission, shall require certification in de-escalation training and use of body-worn**  
46 **cameras by peace officers.**

47 **5. The basic training of every peace officer, except agents of the conservation**  
48 **commission, shall prohibit the use of maneuvers that restrict blood or oxygen flow to the**  
49 **brain or prevent or hinder breathing or reduce the intake of air, such as carotid restraints,**  
50 **knee holds, choke holds, or similar acts of applying force or pressure against the trachea,**  
51 **windpipe, carotid arteries, or jugular veins unless deadly force is lawful.**

590.060. 1. The POST commission shall establish minimum standards for training instructors and training centers, and the director shall establish minimum qualifications for admittance into a basic training course.

2. The director shall license training instructors, centers, and curricula, and may probate, suspend and revoke such licenses upon written notice stating the reasons for such action. Any person aggrieved by a decision pursuant to this subsection may appeal as provided in chapter 536.

3. Each person seeking entrance into a basic training program shall submit a fingerprint card and authorization for a criminal history background check to include the records of the Federal Bureau of Investigation to the training center where such person is seeking entrance. The training center shall cause a criminal history background check to be made and shall cause the resulting report to be forwarded to the director. The person seeking entrance may be charged a fee for the cost of this procedure.

**4. Notwithstanding any other provision of law, no law enforcement agency or political subdivision empowered by law to maintain a law enforcement agency shall contract with any public or private entity to provide law enforcement training unless the entity's instructors and curriculum have been approved by the POST commission.**

590.080. 1. The director shall have cause to discipline any peace officer licensee who:

(1) Is unable to perform the functions of a peace officer with reasonable competency or reasonable safety as a result of a mental condition, including alcohol or substance abuse;

(2) Has committed any criminal offense, whether or not a criminal charge has been filed;

**(3) Has applied a carotid restraint or chokehold in the course of his or her duties as a peace officer when the use of deadly force was not lawful and the carotid restraint or chokehold resulted in serious injury or death, regardless of whether the licensee is criminally prosecuted;**

(4) Has committed any act while on active duty or under color of law that involves moral turpitude or a reckless disregard for the safety of the public or any person;

~~[(4)]~~ (5) Has caused a material fact to be misrepresented for the purpose of obtaining or retaining a peace officer commission or any license issued pursuant to this chapter;

~~[(5)]~~ (6) Has violated a condition of any order of probation lawfully issued by the director; or

~~[(6)]~~ (7) Has violated a provision of this chapter or a rule promulgated pursuant to this chapter.

2. When the director has knowledge of cause to discipline a peace officer ~~[licensee]~~ licensee pursuant to this section, the director may cause a complaint to be filed with the administrative hearing commission, which shall conduct a hearing to determine whether the

20 director has cause for discipline, and which shall issue findings of fact and conclusions of law  
21 on the matter. The administrative hearing commission shall not consider the relative severity of  
22 the cause for discipline or any rehabilitation of the licensee or otherwise impinge upon the  
23 discretion of the director to determine appropriate discipline when cause exists pursuant to this  
24 section.

25 3. Upon a finding by the administrative hearing commission that cause to discipline  
26 exists, the director shall, within thirty days, hold a hearing to determine the form of discipline  
27 to be imposed and thereafter shall probate, suspend, or permanently revoke the license at issue.  
28 If the licensee fails to appear at the director's hearing, this shall constitute a waiver of the right  
29 to such hearing. **The director shall produce an annual public report including a list of**  
30 **officers from each law enforcement agency whose licenses are on probation, suspended, or**  
31 **revoked and post such report on the department's website.**

32 4. Notice of any hearing pursuant to this chapter or section may be made by certified  
33 mail to the licensee's address of record pursuant to subdivision (2) of subsection 3 of section  
34 590.130. Proof of refusal of the licensee to accept delivery or the inability of postal authorities  
35 to deliver such certified mail shall be evidence that required notice has been given. Notice may  
36 be given by publication.

37 5. Nothing contained in this section shall prevent a licensee from informally disposing  
38 of a cause for discipline with the consent of the director by voluntarily surrendering a license or  
39 by voluntarily submitting to discipline.

40 6. The provisions of chapter 621 and any amendments thereto, except those provisions  
41 or amendments that are in conflict with this chapter, shall apply to and govern the proceedings  
42 of the administrative hearing commission and pursuant to this section the rights and duties of the  
43 parties involved.

590.120. 1. There is hereby established within the department of public safety a "Peace  
2 Officer Standards and Training Commission" which shall be composed of eleven members,  
3 including a voting public member, appointed by the governor, by and with the advice and  
4 consent of the senate, from a list of qualified candidates submitted to the governor by the director  
5 of the department of public safety. No more than two members of the POST commission shall  
6 reside in the same congressional district as any other at the time of their appointments but this  
7 provision shall not apply to the public member. Three members of the POST commission shall  
8 be police chiefs, three members shall be sheriffs, one member shall represent a state law  
9 enforcement agency covered by the provisions of this chapter, two members shall be peace  
10 officers at or below the rank of sergeant employed by a political subdivision, and one member  
11 shall be a chief executive officer of a certified training academy. The public member shall be  
12 at the time of appointment a registered voter; a person who is not and never has been a member

13 of any profession certified or regulated under this chapter or the spouse of such person; and a  
14 person who does not have and never has had a material financial interest in either the providing  
15 of the professional services regulated by this chapter, or an activity or organization directly  
16 related to any profession certified or regulated under this chapter. Each member of the POST  
17 commission shall have been at the time of his appointment a citizen of the United States and a  
18 resident of this state for a period of at least one year, and members who are peace officers shall  
19 be qualified as established by this chapter. No member of the POST commission serving a full  
20 term of three years may be reappointed to the POST commission until at least one year after the  
21 expiration of his most recent term.

22         2. Three of the original members of the POST commission shall be appointed for terms  
23 of one year, three of the original members shall be appointed for terms of two years, and three  
24 of the original members shall be appointed for terms of three years. Thereafter the terms of the  
25 members of the POST commission shall be for three years or until their successors are appointed.  
26 The director may remove any member of the POST commission for misconduct or neglect of  
27 office. Any member of the POST commission may be removed for cause by the director but  
28 such member shall first be presented with a written statement of the reasons thereof, and shall  
29 have a hearing before the POST commission if the member so requests. Any vacancy in the  
30 membership of the commission shall be filled by appointment for the unexpired term. No two  
31 members of the POST commission shall be employees of the same law enforcement agency.

32         3. Annually the director shall appoint one of the members as chairperson. The POST  
33 commission shall meet at least twice each year as determined by the director or a majority of the  
34 members to perform its duties. A majority of the members of the POST commission shall  
35 constitute a quorum.

36         4. No member of the POST commission shall receive any compensation for the  
37 performance of his official duties.

38         5. **The director shall employ staff as the director deems necessary including, but not**  
39 **limited to, no fewer than one full-time investigator for each congressional district in the**  
40 **state.**

41         6. The POST commission shall guide and advise the director concerning duties pursuant  
42 to this chapter.

590.180. 1. ~~[No arrest shall be deemed unlawful solely because of the licensure status~~  
2 ~~of a peace officer, and evidence on the question cannot be received in any civil or criminal case.~~  
3 ~~———2.]~~ The name, licensure status, and commissioning or employing law enforcement  
4 agency, if any, of applicants and licensees pursuant to this chapter shall be an open record. All  
5 other records retained by the director pertaining to any applicant or licensee shall be confidential  
6 and shall not be disclosed to the public or any member of the public, except with written consent

7 of the person or entity whose records are involved, provided, however, that the director may  
8 disclose such information in the course of voluntary interstate exchange of information, during  
9 the course of litigation involving the director, to other state agencies, or, upon a final  
10 determination of cause to discipline, to law enforcement agencies. No closed record conveyed  
11 to the director pursuant to this chapter shall lose its status as a closed record solely because it is  
12 retained by the director. Nothing in this section shall be used to compel the director to disclose  
13 any record subject to attorney-client privilege or work-product privilege.

14 ~~[3-]~~ 2. In any investigation, hearing, or other proceeding pursuant to this chapter, any  
15 record relating to any applicant or licensee shall be discoverable by the director and shall be  
16 admissible into evidence, regardless of any statutory or common law privilege or the status of  
17 any record as open or closed, including records in criminal cases whether or not a sentence has  
18 been imposed. No person or entity shall withhold records or testimony bearing upon the fitness  
19 to be commissioned as a peace officer of any applicant or licensee on the ground of any privilege  
20 involving the applicant or licensee, with the exception of attorney-client privilege.

21 ~~[4-]~~ 3. Any person or entity submitting information to the director pursuant to this  
22 chapter and doing so in good faith and without negligence shall be immune from all criminal and  
23 civil liability arising from the submission of such information and no cause of action of any  
24 nature shall arise against such person.

25 ~~[5-]~~ 4. No person shall make any unauthorized use of any testing materials or  
26 certification examination administered pursuant to subsection 2 of section 590.030.

590.195. 1. A person commits a class B misdemeanor if, in violation of this chapter,  
2 such person knowingly:

3 (1) Holds a commission as a peace officer without a peace officer license valid for such  
4 commission; or

5 (2) Grants or continues the commission of a peace officer not validly licensed for such  
6 commission.

7 2. Any person who purposely violates any other provision of this chapter shall be guilty  
8 of a class B misdemeanor.

9 3. Any law enforcement agency that commissions a peace officer in violation of this  
10 chapter or that is otherwise in violation of any provision of this chapter shall not be eligible to  
11 receive state or federal funds that would otherwise be paid to it for the purpose of training and  
12 licensing peace officers or for any other law enforcement, safety, or criminal justice purpose **and**  
13 **shall be subject to a fine of one thousand dollars for each day the agency commissions a**  
14 **peace officer to serve in violation of this chapter.**

**590.230. 1. A law enforcement agency shall not purchase or receive the following**  
2 **property from a military equipment surplus program operated by the federal government:**

- 3           (1) Drones that are armored, weaponized, or both;
- 4           (2) Aircraft that are combat configured or combat coded;
- 5           (3) Grenades or similar explosives and grenade launchers;
- 6           (4) Firearm or weapon silencers; or
- 7           (5) Militarized armored vehicles.

8           2. If a law enforcement agency purchases property from a military equipment  
9 surplus program operated by the federal government, the law enforcement agency shall  
10 use only state or local funds for the purchase. Funds obtained from the federal  
11 government shall not be used to purchase property from a military equipment surplus  
12 program operated by the federal government.

13          3. If a law enforcement agency requests property from a military equipment  
14 surplus program operated by the federal government, the law enforcement agency shall  
15 publish a notice of the request on a publicly accessible website within fourteen days after  
16 the request.

          590.510. 1. Every law enforcement agency in this state shall have a written policy  
2 regarding the investigation of an officer-involved death involving a law enforcement officer  
3 employed by the law enforcement agency. Such written policy shall:

4           (1) Require an investigation conducted by at least two investigators, one of whom  
5 is the lead investigator and neither of whom is employed by a law enforcement agency that  
6 employs a law enforcement officer involved in the officer-involved death;

7           (2) Require the investigation to use a crash reconstruction unit from a law  
8 enforcement agency that does not employ a law enforcement officer involved in the officer-  
9 involved death being investigated if the death is traffic related. However, any state law  
10 enforcement agency may allow an investigation involving a law enforcement officer  
11 employed by that agency to use a crash reconstruction unit from the same state law  
12 enforcement agency; and

13          (3) Allow an internal investigation into the officer-involved death if the internal  
14 investigation does not interfere with the investigation required under this section.

15          2. Compensation for participation in an investigation under this section shall be  
16 determined in a manner consistent with mutual aid agreements.

17          3. The investigators conducting an investigation under this section shall provide a  
18 complete report, in an expeditious manner, to the prosecutor of the county or city not  
19 within a county in which the officer-involved death occurred. If the prosecutor determines  
20 there is no basis to prosecute the law enforcement officer involved in the officer-involved  
21 death, the investigators conducting the investigation under this section shall release a  
22 report of their findings.

23           4. As used in this section, the term "officer-involved death" shall mean a death of  
24 an individual that results directly from an action or an omission of a law enforcement  
25 officer while the officer is on duty or while the officer is off duty but performing activities  
26 that are within the scope of his or her law enforcement duties.

          590.511. 1. If an officer-involved death or an officer-involved shooting occurs, the  
2 presiding judge of the judicial circuit where such incident occurred shall appoint a special  
3 prosecutor to investigate the officer's actions regarding such death or shooting. The special  
4 prosecutor shall conduct an investigation and determine if charges are appropriate.

5           2. The presiding judge of the judicial circuit shall have discretion to appoint any  
6 attorney licensed in this state as a special prosecutor. Such special prosecutor shall possess  
7 all powers of a prosecuting attorney or assistant attorney general in exercising his or her  
8 prosecutorial duties. If such special prosecutor is a prosecutor of a county or city not  
9 within a county, he or she shall receive no additional compensation for serving as special  
10 prosecutor. If the special prosecutor is not a prosecutor of a county or city not within a  
11 county, he or she shall receive a reasonable fee for serving as such special prosecutor. Such  
12 fee shall be fixed by the judge appointing the attorney and shall be paid from the funds of  
13 the office of the prosecutor of the jurisdiction in which the complaint or charges are filed.

14           3. For the purposes of this section, the following terms mean:

15           (1) "Officer-involved death", the death of an individual that results directly from  
16 an action or omission by a law enforcement officer while the officer is on duty or while off  
17 duty but performing activities that are within the scope of his or her law enforcement  
18 duties;

19           (2) "Officer-involved shooting", an incident in which an individual is injured as a  
20 result of a law enforcement officer discharging the officer's firearm while on duty or while  
21 off duty but performing activities that are within the scope of the officer's law enforcement  
22 duties.

          590.520. 1. For purposes of this section, "serious misconduct" means improper or  
2 illegal actions taken by a law enforcement officer in connection with the officer's official  
3 duties including, but not limited to, a conviction for a felony, fabrication of evidence,  
4 repeated use of excessive force, acceptance of a bribe, or the commission of fraud.

5           2. Before beginning employment with a law enforcement agency in this state, a law  
6 enforcement officer who has been certified in another state shall submit a preliminary  
7 application for certification through examination by the agency.

8           3. The application shall be under oath and shall require the law enforcement officer  
9 to provide any information determined to be necessary by the agency including, but not  
10 limited to, an attestation by the law enforcement officer of any of the following:



- 11           (1) Whether the officer has pled guilty to or been convicted of a felony;
- 12           (2) Whether the officer has been discharged for serious misconduct from
- 13 employment as a law enforcement officer;
- 14           (3) Whether the officer's certification as a law enforcement officer has been
- 15 revoked or suspended in another state; and
- 16           (4) Whether the officer resigned or has been laid off when the officer knew or had
- 17 reason to believe that a disciplinary investigation or action was imminent or pending that
- 18 could have resulted in the officer being discharged for serious misconduct.
- 19           4. A law enforcement agency shall deny a preliminary application upon a finding
- 20 that a law enforcement officer has done any of the following:
- 21           (1) Pled guilty to or been convicted of a felony;
- 22           (2) Had his or her certification as a law enforcement officer revoked in another
- 23 state;
- 24           (3) Been discharged from employment as a law enforcement officer for serious
- 25 misconduct; or
- 26           (4) Resigned or been laid off when a disciplinary investigation or action was
- 27 imminent or pending that could have resulted in the officer being discharged for serious
- 28 misconduct.
- 29           5. If a law enforcement agency denies a preliminary application for certification,
- 30 the law enforcement officer shall be prohibited from employment as a law enforcement
- 31 officer in this state.

          590.651. All law enforcement agencies shall prohibit the use of carotid restraints

2 or chokeholds except for when the use of deadly force is lawful. The use of carotid

3 restraints and chokeholds shall be defined as deadly force pursuant to section 563.011 and

4 shall be reported to the attorney general for publication.

          590.652. Law enforcement agencies shall adopt the following requirements

2 regarding weapons and the use of force by law enforcement officers:

- 3           (1) Each law enforcement agency shall ensure that only law enforcement officers
- 4 who have successfully completed approved training and who are currently certified under
- 5 this chapter may carry and use firearms;
- 6           (2) Law enforcement officers must complete approved training for use of firearms
- 7 once per year;
- 8           (3) Law enforcement officers who fail to complete approved training shall
- 9 immediately relinquish all department-issued firearms;

10           (4) Law enforcement officers who fail to complete remedial training within a  
11 reasonable time shall be subject to disciplinary action, which may include termination of  
12 employment;

13           (5) Any law enforcement agency found to permit law enforcement officers to carry  
14 an unauthorized firearm shall receive a warning for the first offense and a fine of up to five  
15 thousand dollars for each subsequent offense; and

16           (6) Each law enforcement agency shall require law enforcement officers to report  
17 a reasonable justification for each shot fired as a separate incident of use of force.

**590.654. 1.** Any peace officer or security guard who, while in the performance of  
2 his or her official duties, uses a carotid restraint or chokehold and causes death to another  
3 person in circumstances in which a reasonable person would believe the use of deadly force  
4 is not justified shall be guilty of the offense of aggravated strangulation in the first degree.  
5 Such offense shall be a class A felony.

6           2. Any peace officer who is found guilty or has entered a plea of guilty or nolo  
7 contendere under this section shall be referred for disciplinary action pursuant to section  
8 590.080.

**590.655. 1.** Any peace officer or security guard who, while in the performance of  
2 his or her official duties, uses a carotid restraint or chokehold and causes serious physical  
3 injury to another person in circumstances in which a reasonable person would believe  
4 deadly force is not justified shall be guilty of the offense of aggravated strangulation in the  
5 second degree. Such offense shall be a class B felony.

6           2. Any peace officer who is found guilty or has entered a plea of guilty or nolo  
7 contendere under this section shall be referred for disciplinary action pursuant to section  
8 590.080.

**590.656. 1.** Each state and local law enforcement agency shall send a report of all  
2 complaints alleging excessive use of force to the attorney general. The report shall include  
3 a breakdown of which complaints were verified, which were found to be unfounded, which  
4 remain active, and what steps were taken to address verified complaints. The report of  
5 complaints shall include the age, gender, and race or minority group of the individual  
6 alleging the complaint.

7           2. Each state and local law enforcement agency shall send a report to the attorney  
8 general of all instances of use of deadly force by law enforcement officers pursuant to  
9 section 544.190.

**590.1035. 1.** The Missouri state highway patrol shall investigate the following:

(1) Any incident involving the shooting of a civilian by a law enforcement officer in a city not within a county or in a county with a charter form of government and with more than nine hundred fifty thousand inhabitants;

(2) Any incident involving the shooting of a law enforcement officer by a civilian in a city not within a county or in a county with a charter form of government and with more than nine hundred fifty thousand inhabitants;

(3) Any incident in which the use of force by a law enforcement officer against a civilian results in serious bodily injury or death in a city not within a county or in a county with a charter form of government and with more than nine hundred fifty thousand inhabitants; and

(4) Any incident in which the use of force by a civilian against a law enforcement officer results in serious bodily injury or death in a city not within a county or in a county with a charter form of government and with more than nine hundred fifty thousand inhabitants.

2. The local law enforcement agency shall reimburse the Missouri state highway patrol for any expenses incurred by the patrol in investigating incidents under subsection 1 of this section.

650.467. 1. There is hereby established in the department of public safety the "Task Force on the Use of Force by a Law Enforcement Officer". The task force shall focus its efforts on clarifying the use of force allowed by law enforcement officers, under section 563.046, in a county with a charter form of government and with more than nine hundred fifty thousand inhabitants.

2. The task force shall have a membership of nine persons appointed by the director of public safety. Membership may include, but does not need to be limited to, the following:

(1) A person from the POST commission;

(2) A former sheriff, chief of police, deputy sheriff, or deputy chief of police;

(3) An assistant attorney general;

(4) A retired judge;

(5) A licensed attorney with experience in criminal defense who is in no way involved in prosecuting crimes; and

(6) A former prosecuting attorney or assistant prosecuting attorney who served in that capacity for at least ten years.

3. The director of the department of public safety or the director's designee shall convene the first meeting of the task force for the purpose of establishing the bylaws of the task force and electing officers to include a chair, vice chair, and secretary. The task force

20 shall not meet more than four times annually. Members may be reimbursed for expenses  
21 but shall not receive a per diem allowance.

2 ~~[21.750. 1. The general assembly hereby occupies and preempts the~~  
3 ~~entire field of legislation touching in any way firearms, components, ammunition~~  
4 ~~and supplies to the complete exclusion of any order, ordinance or regulation by~~  
5 ~~any political subdivision of this state. Any existing or future orders, ordinances~~  
6 ~~or regulations in this field are hereby and shall be null and void except as~~  
7 ~~provided in subsection 3 of this section.~~

8 ~~2. No county, city, town, village, municipality, or other political~~  
9 ~~subdivision of this state shall adopt any order, ordinance or regulation concerning~~  
10 ~~in any way the sale, purchase, purchase delay, transfer, ownership, use, keeping,~~  
11 ~~possession, bearing, transportation, licensing, permit, registration, taxation other~~  
12 ~~than sales and compensating use taxes or other controls on firearms, components,~~  
13 ~~ammunition, and supplies except as provided in subsection 3 of this section.~~

14 ~~3. (1) Except as provided in subdivision (2) of this subsection, nothing~~  
15 ~~contained in this section shall prohibit any ordinance of any political subdivision~~  
16 ~~which conforms exactly with any of the provisions of sections 571.010 to~~  
17 ~~571.070, with appropriate penalty provisions, or which regulates the open~~  
18 ~~carrying of firearms readily capable of lethal use or the discharge of firearms~~  
19 ~~within a jurisdiction, provided such ordinance complies with the provisions of~~  
20 ~~section 252.243. No ordinance shall be construed to preclude the use of a~~  
21 ~~firearm in the defense of person or property, subject to the provisions of chapter~~  
22 ~~563.~~

23 ~~(2) In any jurisdiction in which the open carrying of firearms is~~  
24 ~~prohibited by ordinance, the open carrying of firearms shall not be prohibited in~~  
25 ~~accordance with the following:~~

26 ~~(a) Any person with a valid concealed carry endorsement or permit who~~  
27 ~~is open carrying a firearm shall be required to have a valid concealed carry~~  
28 ~~endorsement or permit from this state, or a permit from another state that is~~  
29 ~~recognized by this state, in his or her possession at all times;~~

30 ~~(b) Any person open carrying a firearm in such jurisdiction shall display~~  
31 ~~his or her concealed carry endorsement or permit upon demand of a law~~  
32 ~~enforcement officer;~~

33 ~~(c) In the absence of any reasonable and articulable suspicion of criminal~~  
34 ~~activity, no person carrying a concealed or unconcealed firearm shall be disarmed~~  
35 ~~or physically restrained by a law enforcement officer unless under arrest; and~~

36 ~~(d) Any person who violates this subdivision shall be subject to the~~  
37 ~~penalty provided in section 571.121.~~

38 ~~4. The lawful design, marketing, manufacture, distribution, or sale of~~  
39 ~~firearms or ammunition to the public is not an abnormally dangerous activity and~~  
40 ~~does not constitute a public or private nuisance.~~

41 ~~5. No county, city, town, village or any other political subdivision nor the~~  
~~state shall bring suit or have any right to recover against any firearms or~~

ammunition manufacturer, trade association or dealer for damages, abatement or injunctive relief resulting from or relating to the lawful design, manufacture, marketing, distribution, or sale of firearms or ammunition to the public. This subsection shall apply to any suit pending as of October 12, 2003, as well as any suit which may be brought in the future. Provided, however, that nothing in this section shall restrict the rights of individual citizens to recover for injury or death caused by the negligent or defective design or manufacture of firearms or ammunition.

6. Nothing in this section shall prevent the state, a county, city, town, village or any other political subdivision from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by the state or such political subdivision.]

[563.051. 1. A private person who has been directed by a person he or she reasonably believes to be a law enforcement officer to assist such officer to effect an arrest or to prevent escape from custody may, subject to the limitations of subsection 3 of this section, use physical force when and to the extent that he or she reasonably believes such to be necessary to carry out such officer's direction unless he or she knows or believes that the arrest or prospective arrest is not or was not authorized.

2. A private person acting on his or her own account may, subject to the limitations of subsection 3 of this section, use physical force to arrest or prevent the escape of a person whom such private person reasonably believes has committed an offense, and who in fact has committed such offense, when the private person's actions are immediately necessary to arrest the offender or prevent his or her escape from custody.

3. A private person in effecting an arrest or in preventing escape from custody is justified in using deadly force only:

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

(2) When he or she reasonably believes deadly force is authorized under the circumstances and he or she is directed or authorized by a law enforcement officer to use deadly force; or

(3) When he or she reasonably believes such use of deadly force is immediately necessary to arrest a person who at that time and in his or her presence:

(a) Committed or attempted to commit a class A felony or murder; or

(b) Is attempting to escape by use of a deadly weapon.

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

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