

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILLS NOS. 62 & 41

AN ACT

To repeal sections 476.083, 563.011, 563.031, 563.036, 563.041, 571.030, 571.080, 571.090, 571.095, 571.111, and 630.140, RSMo, and to enact in lieu thereof ten new sections relating to the criminal justice system, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 476.083, 563.011, 563.031, 563.036,
2 563.041, 571.030, 571.080, 571.090, 571.095, 571.111, and
3 630.140, RSMo, are repealed and ten new sections enacted in lieu
4 thereof, to be known as sections 476.083, 563.011, 563.031,
5 563.041, 563.074, 571.030, 571.080, 571.095, 571.111, and
6 630.140, to read as follows:

7 476.083. 1. In addition to any appointments made pursuant
8 to section 485.010, RSMo, the presiding judge of each circuit
9 containing one or more facilities operated by the department of
10 corrections with an average total inmate population in all such
11 facilities in the circuit over the previous two years of more
12 than two thousand five hundred inmates may appoint a circuit
13 court marshal to aid the presiding judge in the administration of

1 the judicial business of the circuit by overseeing the physical
2 security of the courthouse, serving court-generated papers and
3 orders, and assisting the judges of the circuit as the presiding
4 judge determines appropriate. Such circuit court marshal
5 appointed pursuant to the provisions of this section shall serve
6 at the pleasure of the presiding judge. The circuit court
7 marshal authorized by this section is in addition to staff
8 support from the circuit clerks, deputy circuit clerks, division
9 clerks, municipal clerks, and any other staff personnel which may
10 otherwise be provided by law.

11 2. The salary of a circuit court marshal shall be
12 established by the presiding judge of the circuit within funds
13 made available for that purpose, but such salary shall not exceed
14 ninety percent of the salary of the highest paid sheriff serving
15 a county wholly or partially within that circuit. Personnel
16 authorized by this section shall be paid from state funds or
17 federal grant moneys which are available for that purpose and not
18 from county funds.

19 3. Any person appointed as a circuit court marshal pursuant
20 to this section shall have at least five years' prior experience
21 as a law enforcement officer. In addition, any such person shall
22 within one year after appointment, or as soon as practicable,
23 attend a court security school or training program operated by
24 the United States Marshal Service. In addition to all other
25 powers and duties prescribed in this section, a circuit court
26 marshal may:

- 27 (1) Serve process;
- 28 (2) Wear a concealable firearm[, pursuant to a permit

1 granted under section 571.090, RSMo]; and

2 (3) Make an arrest based upon local court rules and state
3 law, and as directed by the presiding judge of the circuit.

4 563.011. As used in this chapter the following terms shall
5 mean:

6 (1) "Deadly force" [means], physical force which the actor
7 uses with the purpose of causing or which he or she knows to
8 create a substantial risk of causing death or serious physical
9 injury[.];

10 (2) "Dwelling" [means], any building [or], inhabitable
11 structure, [though movable or temporary, or a portion thereof,
12 which is for the time being the actor's home or place of
13 lodging.] or conveyance of any kind, whether the building,
14 inhabitable structure, or conveyance is temporary or permanent,
15 mobile or immobile, which has a roof over it, including a tent,
16 and is designed to be occupied by people lodging therein at
17 night;

18 (3) "Forcible felony", any felony involving the use or
19 threat of physical force or violence against any individual,
20 including but not limited to murder, robbery, burglary, arson,
21 kidnapping, assault, and any forcible sexual offense;

22 [(3)] (4) "Premises", includes any building, inhabitable
23 structure and any real property[.];

24 [(4)] (5) "Private person" [means], any person other than a
25 law enforcement officer;

26 (6) "Remain after unlawfully entering", to remain in or
27 upon premises after unlawfully entering as defined in this
28 section;

1 (7) "Residence", a dwelling in which a person resides
2 either temporarily or permanently or is visiting as an invited
3 guest;

4 (8) "Unlawfully enter", a person unlawfully enters in or
5 upon premises when he or she enters such premises and is not
6 licensed or privileged to do so. A person who, regardless of his
7 or her purpose, enters in or upon premises that are at the time
8 open to the public does so with license unless he or she defies a
9 lawful order not to enter, personally communicated to him or her
10 by the owner of such premises or by another authorized person. A
11 license to enter in a building that is only partly open to the
12 public is not a license to enter in that part of the building
13 that is not open to the public.

14 563.031. 1. A person may, subject to the provisions of
15 subsection 2 of this section, use physical force upon another
16 person when and to the extent he or she reasonably believes such
17 force to be necessary to defend himself or herself or a third
18 person from what he or she reasonably believes to be the use or
19 imminent use of unlawful force by such other person, unless:

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

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

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

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

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

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

8 2. A person may not use deadly force upon another person
9 under the circumstances specified in subsection 1 of this section
10 unless:

11 (1) He or she reasonably believes that such deadly force is
12 necessary to protect himself or herself or another against death,
13 serious physical injury, [rape, sodomy or kidnapping or serious
14 physical injury through robbery, burglary or arson] or any
15 forcible felony; or

16 (2) Such force is used against a person who unlawfully
17 enters, remains after unlawfully entering, or attempts to
18 unlawfully enter a dwelling, residence, or vehicle lawfully
19 occupied by such person.

20 3. A person does not have a duty to retreat from a
21 dwelling, residence, or vehicle where the person is not
22 unlawfully entering or unlawfully remaining.

23 [3.] 4. The justification afforded by this section extends
24 to the use of physical restraint as protective force provided
25 that the actor takes all reasonable measures to terminate the
26 restraint as soon as it is reasonable to do so.

27 [4.] 5. The defendant shall have the burden of injecting
28 the issue of justification under this section.

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

7 2. A person may use deadly force under circumstances
8 described in subsection 1 only when such use of deadly force is
9 authorized under other sections of this chapter.

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

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

16 563.074. 1. Notwithstanding the provisions of section
17 563.016, a person who uses force as described in sections
18 563.031, 563.041, 563.046, 563.051, 563.056, and 563.061 is
19 justified in using such force and such fact shall be an absolute
20 defense to criminal prosecution or civil liability.

21 2. The court shall award attorney's fees, court costs, and
22 all reasonable expenses incurred by the defendant in defense of
23 any civil action brought by a plaintiff if the court finds that
24 the defendant has an absolute defense as provided in subsection 1
25 of this section.

26 571.030. 1. A person commits the crime of unlawful use of
27 weapons if he or she knowingly:

28 (1) Carries concealed upon or about his or her person a

1 knife, a firearm, a blackjack or any other weapon readily capable
2 of lethal use; or

3 (2) Sets a spring gun; or

4 (3) Discharges or shoots a firearm into a dwelling house, a
5 railroad train, boat, aircraft, or motor vehicle as defined in
6 section 302.010, RSMo, or any building or structure used for the
7 assembling of people; or

8 (4) Exhibits, in the presence of one or more persons, any
9 weapon readily capable of lethal use in an angry or threatening
10 manner; or

11 (5) Possesses or discharges a firearm or projectile weapon
12 while intoxicated; or

13 (6) Discharges a firearm within one hundred yards of any
14 occupied schoolhouse, courthouse, or church building; or

15 (7) Discharges or shoots a firearm at a mark, at any
16 object, or at random, on, along or across a public highway or
17 discharges or shoots a firearm into any outbuilding; or

18 (8) Carries a firearm or any other weapon readily capable
19 of lethal use into any church or place where people have
20 assembled for worship, or into any election precinct on any
21 election day, or into any building owned or occupied by any
22 agency of the federal government, state government, or political
23 subdivision thereof; or

24 (9) Discharges or shoots a firearm at or from a motor
25 vehicle, as defined in section 301.010, RSMo, discharges or
26 shoots a firearm at any person, or at any other motor vehicle, or
27 at any building or habitable structure, unless the person was
28 lawfully acting in self-defense; or

1 (10) Carries a firearm, whether loaded or unloaded, or any
2 other weapon readily capable of lethal use into any school, onto
3 any school bus, or onto the premises of any function or activity
4 sponsored or sanctioned by school officials or the district
5 school board.

6 2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10)
7 of subsection 1 of this section shall not apply to or affect any
8 of the following:

9 (1) All state, county and municipal peace officers who have
10 completed the training required by the police officer standards
11 and training commission pursuant to sections 590.030 to 590.050,
12 RSMo, and possessing the duty and power of arrest for violation
13 of the general criminal laws of the state or for violation of
14 ordinances of counties or municipalities of the state, whether
15 such officers are on or off duty, and whether such officers are
16 within or outside of the law enforcement agency's jurisdiction,
17 or all qualified retired peace officers, as defined in subsection
18 10 of this section, and who carry the identification defined in
19 subsection 11 of this section, or any person summoned by such
20 officers to assist in making arrests or preserving the peace
21 while actually engaged in assisting such officer;

22 (2) Wardens, superintendents and keepers of prisons,
23 penitentiaries, jails and other institutions for the detention of
24 persons accused or convicted of crime;

25 (3) Members of the armed forces or national guard while
26 performing their official duty;

27 (4) Those persons vested by article V, section 1 of the
28 Constitution of Missouri with the judicial power of the state and

1 those persons vested by Article III of the Constitution of the
2 United States with the judicial power of the United States, the
3 members of the federal judiciary;

4 (5) Any person whose bona fide duty is to execute process,
5 civil or criminal;

6 (6) Any federal probation officer or federal flight deck
7 officer as defined under the federal flight deck officer program,
8 49 U.S.C. Section 44921;

9 (7) Any state probation or parole officer, including
10 supervisors and members of the board of probation and parole;

11 (8) Any corporate security advisor meeting the definition
12 and fulfilling the requirements of the regulations established by
13 the board of police commissioners under section 84.340, RSMo; and

14 (9) Any coroner, deputy coroner, medical examiner, or
15 assistant medical examiner.

16 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of
17 this section do not apply when the actor is transporting such
18 weapons in a nonfunctioning state or in an unloaded state when
19 ammunition is not readily accessible or when such weapons are not
20 readily accessible. Subdivision (1) of subsection 1 of this
21 section does not apply to any person twenty-one years of age or
22 older transporting a concealable firearm in the passenger
23 compartment of a motor vehicle, so long as such concealable
24 firearm is otherwise lawfully possessed, nor when the actor is
25 also in possession of an exposed firearm or projectile weapon for
26 the lawful pursuit of game, or is in his or her dwelling unit or
27 upon premises over which the actor has possession, authority or
28 control, or is traveling in a continuous journey peaceably

1 through this state. Subdivision (10) of subsection 1 of this
2 section does not apply if the firearm is otherwise lawfully
3 possessed by a person while traversing school premises for the
4 purposes of transporting a student to or from school, or
5 possessed by an adult for the purposes of facilitation of a
6 school-sanctioned firearm-related event.

7 4. Subdivisions (1), (8), and (10) of subsection 1 of this
8 section shall not apply to any person who has a valid concealed
9 carry endorsement issued pursuant to sections 571.101 to 571.121
10 or a valid permit or endorsement to carry concealed firearms
11 issued by another state or political subdivision of another
12 state.

13 5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10)
14 of subsection 1 of this section shall not apply to persons who
15 are engaged in a lawful act of defense pursuant to section
16 563.031, RSMo.

17 6. Nothing in this section shall make it unlawful for a
18 student to actually participate in school-sanctioned gun safety
19 courses, student military or ROTC courses, or other
20 school-sponsored firearm-related events, provided the student
21 does not carry a firearm or other weapon readily capable of
22 lethal use into any school, onto any school bus, or onto the
23 premises of any other function or activity sponsored or
24 sanctioned by school officials or the district school board.

25 7. Unlawful use of weapons is a class D felony unless
26 committed pursuant to subdivision (6), (7), or (8) of subsection
27 1 of this section, in which cases it is a class B misdemeanor, or
28 subdivision (5) or (10) of subsection 1 of this section, in which

1 case it is a class A misdemeanor if the firearm is unloaded and a
2 class D felony if the firearm is loaded, or subdivision (9) of
3 subsection 1 of this section, in which case it is a class B
4 felony, except that if the violation of subdivision (9) of
5 subsection 1 of this section results in injury or death to
6 another person, it is a class A felony.

7 8. Violations of subdivision (9) of subsection 1 of this
8 section shall be punished as follows:

9 (1) For the first violation a person shall be sentenced to
10 the maximum authorized term of imprisonment for a class B felony;

11 (2) For any violation by a prior offender as defined in
12 section 558.016, RSMo, a person shall be sentenced to the maximum
13 authorized term of imprisonment for a class B felony without the
14 possibility of parole, probation or conditional release for a
15 term of ten years;

16 (3) For any violation by a persistent offender as defined
17 in section 558.016, RSMo, a person shall be sentenced to the
18 maximum authorized term of imprisonment for a class B felony
19 without the possibility of parole, probation, or conditional
20 release;

21 (4) For any violation which results in injury or death to
22 another person, a person shall be sentenced to an authorized
23 disposition for a class A felony.

24 9. Any person knowingly aiding or abetting any other person
25 in the violation of subdivision (9) of subsection 1 of this
26 section shall be subject to the same penalty as that prescribed
27 by this section for violations by other persons.

28 10. As used in this section "qualified retired peace

1 officer" means an individual who:

2 (1) Retired in good standing from service with a public
3 agency as a peace officer, other than for reasons of mental
4 instability;

5 (2) Before such retirement, was authorized by law to engage
6 in or supervise the prevention, detection, investigation, or
7 prosecution of, or the incarceration of any person for, any
8 violation of law, and had statutory powers of arrest;

9 (3) Before such retirement, was regularly employed as a
10 peace officer for an aggregate of fifteen years or more, or
11 retired from service with such agency, after completing any
12 applicable probationary period of such service, due to a service-
13 connected disability, as determined by such agency;

14 (4) Has a nonforfeitable right to benefits under the
15 retirement plan of the agency if such a plan is available;

16 (5) During the most recent twelve-month period, has met, at
17 the expense of the individual, the standards for training and
18 qualification for active peace officers to carry firearms;

19 (6) Is not under the influence of alcohol or another
20 intoxicating or hallucinatory drug or substance; and

21 (7) Is not prohibited by federal law from receiving a
22 firearm.

23 11. The identification required by subdivision (1) of
24 subsection 2 of this section is:

25 (1) A photographic identification issued by the agency from
26 which the individual retired from service as a peace officer that
27 indicates that the individual has, not less recently than one
28 year before the date the individual is carrying the concealed

1 firearm, been tested or otherwise found by the agency to meet the
2 standards established by the agency for training and
3 qualification for active peace officers to carry a firearm of the
4 same type as the concealed firearm; or

5 (2) A photographic identification issued by the agency from
6 which the individual retired from service as a peace officer; and

7 (3) A certification issued by the state in which the
8 individual resides that indicates that the individual has, not
9 less recently than one year before the date the individual is
10 carrying the concealed firearm, been tested or otherwise found by
11 the state to meet the standards established by the state for
12 training and qualification for active peace officers to carry a
13 firearm of the same type as the concealed firearm.

14 571.080. [1.] A person commits the crime of transfer of a
15 concealable firearm [without a permit if:

16 (1) He buys, leases, borrows, exchanges or otherwise
17 receives any concealable firearm, unless he first obtains and
18 delivers to the person delivering the firearm a valid permit
19 authorizing the acquisition of the firearm; or

20 (2) He sells, leases, loans, exchanges, gives away or
21 otherwise delivers any concealable firearm, unless he first
22 demands and receives from the person receiving the firearm a
23 valid permit authorizing such acquisition of the firearm.

24 2. A permit to acquire a concealable firearm shall only be
25 valid for thirty days after the issuance thereof.

26 3. Subsection 1 of this section shall not apply to the
27 acquisition by or transfer of concealable firearms among
28 manufacturers, wholesalers or retailers of firearms for purposes

1 of commerce; nor shall it apply to antique firearms or replicas
2 thereof; nor shall it apply to curio or relic firearms as defined
3 in section 571.010.

4 4. Transfer of concealable firearms without a permit is a
5 class A misdemeanor] if such person violates 18 U.S.C. Section
6 922(b) or 18 U.S.C. Section 922(x).

7 571.095. Upon conviction for or attempting to commit a
8 felony in violation of any law perpetrated in whole or in part by
9 the use of a firearm, the court may, in addition to the penalty
10 provided by law for such offense, order the confiscation and
11 disposal or sale or trade to a licensed firearms dealer of
12 firearms and ammunition used in the commission of the crime or
13 found in the possession or under the immediate control of the
14 defendant at the time of his or her arrest. The proceeds of any
15 sale or gains from trade shall be the property of the police
16 department or sheriff's department responsible for the
17 defendant's arrest or the confiscation of the firearms and
18 ammunition. If such firearms or ammunition are not the property
19 of the convicted felon, they shall be returned to their rightful
20 owner if he or she is known and was not a participant in the
21 crime. Any proceeds collected under this section shall be
22 deposited with the municipality or by the county treasurer into
23 the county sheriff's revolving fund established in section
24 50.535, RSMo.

25 571.111. 1. An applicant for a concealed carry endorsement
26 shall demonstrate knowledge of firearms safety training. This
27 requirement shall be fully satisfied if the applicant for a
28 concealed carry endorsement:

1 (1) Submits a photocopy of a certificate of firearms safety
2 training course completion, as defined in subsection 2 of this
3 section, signed by a qualified firearms safety instructor as
4 defined in subsection 5 of this section; or

5 (2) Submits a photocopy of a certificate that shows the
6 applicant completed a firearms safety course given by or under
7 the supervision of any state, county, municipal, or federal law
8 enforcement agency; or

9 (3) Is a qualified firearms safety instructor as defined in
10 subsection 5 of this section; or

11 (4) Submits proof that the applicant currently holds any
12 type of valid peace officer license issued under the requirements
13 of chapter 590, RSMo; or

14 (5) Submits proof that the applicant is currently allowed
15 to carry firearms in accordance with the certification
16 requirements of section 217.710, RSMo; or

17 (6) Submits proof that the applicant is currently certified
18 as any class of corrections officer by the Missouri department of
19 corrections and has passed at least one eight-hour firearms
20 training course, approved by the director of the Missouri
21 department of corrections under the authority granted to him or
22 her by section 217.105, RSMo, that includes instruction on the
23 justifiable use of force as prescribed in chapter 563, RSMo.

24 2. A certificate of firearms safety training course
25 completion may be issued to any applicant by any qualified
26 firearms safety instructor. On the certificate of course
27 completion the qualified firearms safety instructor shall affirm
28 that the individual receiving instruction has taken and passed a

1 firearms safety course of at least eight hours in length taught
2 by the instructor that included:

3 (1) Handgun safety in the classroom, at home, on the firing
4 range and while carrying the firearm;

5 (2) A physical demonstration performed by the applicant
6 that demonstrated his or her ability to safely load and unload a
7 revolver and a semiautomatic pistol and demonstrated his or her
8 marksmanship with both;

9 (3) The basic principles of marksmanship;

10 (4) Care and cleaning of concealable firearms;

11 (5) Safe storage of firearms at home;

12 (6) The requirements of this state for obtaining a
13 certificate of qualification for a concealed carry endorsement
14 from the sheriff of the individual's county of residence and a
15 concealed carry endorsement issued by the department of revenue;

16 (7) The laws relating to firearms as prescribed in this
17 chapter;

18 (8) The laws relating to the justifiable use of force as
19 prescribed in chapter 563, RSMo;

20 (9) A live firing exercise of sufficient duration for each
21 applicant to fire a handgun, from a standing position or its
22 equivalent, a minimum of fifty rounds at a distance of seven
23 yards from a B-27 silhouette target or an equivalent target;

24 (10) A live fire test administered to the applicant while
25 the instructor was present of twenty rounds from a standing
26 position or its equivalent at a distance from a B-27 silhouette
27 target, or an equivalent target, of seven yards.

28 3. A qualified firearms safety instructor shall not give a

1 grade of "passing" to an applicant for a concealed carry
2 endorsement who:

3 (1) Does not follow the orders of the qualified firearms
4 instructor or cognizant range officer; or

5 (2) Handles a firearm in a manner that, in the judgment of
6 the qualified firearm safety instructor, poses a danger to the
7 applicant or to others; or

8 (3) During the live fire testing portion of the course
9 fails to hit the silhouette portion of the targets with at least
10 fifteen rounds.

11 4. Qualified firearms safety instructors who provide
12 firearms safety instruction to any person who applies for a
13 concealed carry endorsement shall:

14 (1) Make the applicant's course records available upon
15 request to the sheriff of the county in which the applicant
16 resides;

17 (2) Maintain all course records on students for a period of
18 no less than four years from course completion date; and

19 (3) Not have more than forty students in the classroom
20 portion of the course or more than five students per range
21 officer engaged in range firing.

22 5. A firearms safety instructor shall be considered to be a
23 qualified firearms safety instructor by any sheriff issuing a
24 certificate of qualification for a concealed carry endorsement
25 pursuant to sections 571.101 to 571.121 if the instructor:

26 (1) Is a valid firearms safety instructor certified by the
27 National Rifle Association holding a rating as a personal
28 protection instructor or pistol marksmanship instructor; or

1 (2) Submits a photocopy of a certificate from a firearms
2 safety instructor's course offered by a local, state, or federal
3 governmental agency; or

4 (3) Submits a photocopy of a certificate from a firearms
5 safety instructor course approved by the department of public
6 safety; or

7 (4) Has successfully completed a firearms safety instructor
8 course given by or under the supervision of any state, county,
9 municipal, or federal law enforcement agency; or

10 (5) Is a certified police officer firearms safety
11 instructor.

12 6. Any firearms safety instructor who knowingly provides
13 any sheriff with false information concerning an applicant's
14 performance on the live fire exercise or test administered to the
15 applicant by the instructor pursuant to subdivision (9) or (10)
16 of subsection 2 of this section shall be guilty of a class C
17 misdemeanor.

18 630.140. 1. Information and records compiled, obtained,
19 prepared or maintained by the residential facility, day program
20 operated, funded or licensed by the department or otherwise,
21 specialized service, or by any mental health facility or mental
22 health program in which people may be civilly detained pursuant
23 to chapter 632, RSMo, in the course of providing services to
24 either voluntary or involuntary patients, residents or clients
25 shall be confidential.

26 2. The facilities or programs shall disclose information
27 and records including medication given, dosage levels, and
28 individual ordering such medication to the following upon their

1 request:

2 (1) The parent of a minor patient, resident or client;

3 (2) The guardian or other person having legal custody of
4 the patient, resident or client;

5 (3) The attorney of a patient, resident or client who is a
6 ward of the juvenile court, an alleged incompetent, an
7 incompetent ward or a person detained under chapter 632, RSMo, as
8 evidenced by court orders of the attorney's appointment;

9 (4) An attorney or personal physician as authorized by the
10 patient, resident or client;

11 (5) Law enforcement officers and agencies, information
12 about patients, residents or clients committed pursuant to
13 chapter 552, RSMo, but only to the extent necessary to carry out
14 the responsibilities of their office, and all such law
15 enforcement officers shall be obligated to keep such information
16 confidential;

17 (6) The entity or agency authorized to implement a system
18 to protect and advocate the rights of persons with developmental
19 disabilities under the provisions of 42 U.S.C. Sections 15042 to
20 15044. The entity or agency shall be able to obtain access to
21 the records of a person with developmental disabilities who is a
22 client of the entity or agency if such person has authorized the
23 entity or agency to have such access; and the records of any
24 person with developmental disabilities who, by reason of mental
25 or physical condition is unable to authorize the entity or agency
26 to have such access, if such person does not have a legal
27 guardian, conservator or other legal representative, and a
28 complaint has been received by the entity or agency with respect

1 to such person or there is probable cause to believe that such
2 person has been subject to abuse or neglect. The entity or
3 agency obtaining access to a person's records shall meet all
4 requirements for confidentiality as set out in this section;

5 (7) The entity or agency authorized to implement a system
6 to protect and advocate the rights of persons with mental illness
7 under the provisions of 42 U.S.C. 10801 shall be able to obtain
8 access to the records of a patient, resident or client who by
9 reason of mental or physical condition is unable to authorize the
10 system to have such access, who does not have a legal guardian,
11 conservator or other legal representative and with respect to
12 whom a complaint has been received by the system or there is
13 probable cause to believe that such individual has been subject
14 to abuse or neglect. The entity or agency obtaining access to a
15 person's records shall meet all requirements for confidentiality
16 as set out in this section. The provisions of this subdivision
17 shall apply to a person who has a significant mental illness or
18 impairment as determined by a mental health professional
19 qualified under the laws and regulations of the state;

20 (8) To mental health coordinators, but only to the extent
21 necessary to carry out their duties under chapter 632, RSMo.

22 3. The facilities or services may disclose information and
23 records under any of the following:

24 (1) As authorized by the patient, resident or client;

25 (2) To persons or agencies responsible for providing health
26 care services to such patients, residents or clients;

27 (3) To the extent necessary for a recipient to make a claim
28 or for a claim to be made on behalf of a recipient for aid or

1 insurance;

2 (4) To qualified personnel for the purpose of conducting
3 scientific research, management audits, financial audits, program
4 evaluations or similar studies; provided, that such personnel
5 shall not identify, directly or indirectly, any individual
6 patient, resident or client in any report of such research, audit
7 or evaluation, or otherwise disclose patient, resident or client
8 identities in any manner;

9 (5) To the courts as necessary for the administration of
10 chapter 211, RSMo, 475, RSMo, 552, RSMo, or 632, RSMo;

11 (6) To law enforcement officers or public health officers,
12 but only to the extent necessary to carry out the
13 responsibilities of their office, and all such law enforcement
14 and public health officers shall be obligated to keep such
15 information confidential;

16 (7) Pursuant to an order of a court or administrative
17 agency of competent jurisdiction;

18 (8) To the attorney representing petitioners, but only to
19 the extent necessary to carry out their duties under chapter 632,
20 RSMo;

21 (9) To the department of social services or the department
22 of health and senior services as necessary to report or have
23 investigated abuse, neglect, or rights violations of patients,
24 residents, or clients;

25 (10) To a county board established pursuant to sections
26 205.968 to 205.972, RSMo 1986, but only to the extent necessary
27 to carry out their statutory responsibilities. The county board
28 shall not identify, directly or indirectly, any individual

1 patient, resident or client;

2 (11) To parents, legal guardians, treatment professionals,
3 law enforcement officers, and other individuals who by having
4 such information could mitigate the likelihood of a suicide. The
5 facility treatment team shall have determined that the consumer's
6 safety is at some level of risk.

7 4. The facility or program shall document the dates,
8 nature, purposes and recipients of any records disclosed under
9 this section and sections 630.145 and 630.150.

10 5. The records and files maintained in any court proceeding
11 under chapter 632, RSMo, shall be confidential and available only
12 to the patient, the patient's attorney, guardian, or, in the case
13 of a minor, to a parent or other person having legal custody of
14 the patient, [and] to the petitioner and the petitioner's
15 attorney, and to the Missouri state highway patrol for reporting
16 to the National Instant Criminal Background Check System (NICS).

17 In addition, the court may order the release or use of such
18 records or files only upon good cause shown, and the court may
19 impose such restrictions as the court deems appropriate.

20 6. Nothing contained in this chapter shall limit the rights
21 of discovery in judicial or administrative procedures as
22 otherwise provided for by statute or rule.

23 7. The fact of admission of a voluntary or involuntary
24 patient to a mental health facility under chapter 632, RSMo, may
25 only be disclosed as specified in subsections 2 and 3 of this
26 section.

27 [563.036. 1. A person in possession or control
28 of premises or a person who is licensed or privileged
29 to be thereon, may, subject to the provisions of
30 subsection 2 of this section, use physical force upon

1 another person when and to the extent that he
2 reasonably believes it necessary to prevent or
3 terminate what he reasonably believes to be the
4 commission or attempted commission of the crime of
5 trespass by the other person.

6 2. A person may use deadly force under
7 circumstances described in subsection 1 of this section
8 only:

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

11 (2) When he reasonably believes it necessary to
12 prevent what he reasonably believes to be an attempt by
13 the trespasser to commit arson or burglary upon his
14 dwelling; or

15 (3) When entry into the premises is made or
16 attempted in a violent and tumultuous manner,
17 surreptitiously, or by stealth, and he reasonably
18 believes that the entry is attempted or made for the
19 purpose of assaulting or offering physical violence to
20 any person or being in the premises and he reasonably
21 believes that force is necessary to prevent the
22 commission of a felony.

23 3. The defendant shall have the burden of
24 injecting the issue of justification under this
25 section.]

26
27 [571.090. 1. A permit to acquire a concealable
28 firearm shall be issued by the sheriff of the county in
29 which the applicant resides, if all of the statements
30 in the application are true, and the applicant:

31 (1) Is at least twenty-one years of age, a
32 citizen of the United States and has resided in this
33 state for at least six months;

34 (2) Has not pled guilty to or been convicted of a
35 crime punishable by imprisonment for a term exceeding
36 one year under the laws of any state or of the United
37 States other than a crime classified as a misdemeanor
38 under the laws of any state and punishable by a term of
39 imprisonment of two years or less that does not involve
40 an explosive weapon, firearm, firearm silencer or gas
41 gun;

42 (3) Is not a fugitive from justice or currently
43 charged in an information or indictment with the
44 commission of a crime punishable by imprisonment for a
45 term exceeding one year under the laws of any state or
46 of the United States other than a crime classified as a
47 misdemeanor under the laws of any state and punishable
48 by a term of imprisonment of two years or less that
49 does not involve an explosive weapon, firearm, firearm
50 silencer or gas gun;

51 (4) Has not been discharged under dishonorable

1 conditions from the United States armed forces;

2 (5) Is not publicly known to be habitually in an
3 intoxicated or drugged condition; and

4 (6) Is not currently adjudged mentally
5 incompetent and has not been committed to a mental
6 health facility, as defined in section 632.005, RSMo,
7 or a similar institution located in another state.

8 2. Applications shall be made to the sheriff of
9 the county in which the applicant resides. An
10 application shall be filed in writing, signed and
11 verified by the applicant, and shall state only the
12 following: the name, Social Security number,
13 occupation, age, height, color of eyes and hair,
14 residence and business addresses of the applicant, the
15 reason for desiring the permit, and whether the
16 applicant complies with each of the requirements
17 specified in subsection 1 of this section.

18 3. Before a permit is issued, the sheriff shall
19 make only such inquiries as he deems necessary into the
20 accuracy of the statements made in the application.
21 The sheriff may require that the applicant display a
22 Missouri operator's license or other suitable
23 identification. The sheriff shall issue the permit
24 within a period not to exceed seven days after
25 submission of the properly completed application
26 excluding Saturdays, Sundays or legal holidays.

27 The sheriff may refuse to issue the permit if he
28 determines that any of the requirements specified in
29 subsection 1 of this section have not been met, or if
30 he has reason to believe that the applicant has
31 rendered a false statement regarding any of the
32 provisions in subsection 1 of this section. If the
33 application is approved, the sheriff shall issue a
34 permit and a copy thereof to the applicant.

35 4. The permit shall recite the date of issuance,
36 that it is invalid after thirty days, the name and
37 address of the person to whom granted, the nature of
38 the transaction, and a physical description of the
39 applicant. The applicant shall sign the permit in the
40 presence of the sheriff.

41 5. If the permit is used, the person who receives
42 the permit from the applicant shall return it to the
43 sheriff within thirty days after its expiration, with a
44 notation thereon showing the date and manner of
45 disposition of the firearm and a description of the
46 firearm including the make, model and serial number.
47 The sheriff shall keep a record of all applications for
48 permits, his action thereon, and shall preserve all
49 returned permits.

50 6. No person shall in any manner transfer, alter
51 or change a permit, or make a false notation thereon,

1 or obtain a permit upon any false representation, or
2 use, or attempt to use a permit issued to another.

3 7. For the processing of the permit, the sheriff
4 in each county and the city of St. Louis shall charge a
5 fee not to exceed ten dollars which shall be paid into
6 the treasury of the county or city to the credit of the
7 general revenue fund.

8 8. In any case when the sheriff refuses to issue
9 or to act on an application for a permit, such refusal
10 shall be in writing setting forth the reasons for such
11 refusal. Such written refusal shall explain the denied
12 applicant's right to appeal and, with a copy of the
13 completed application, shall be given to the denied
14 applicant within a period not to exceed seven days
15 after submission of the properly completed application
16 excluding Saturdays, Sundays or legal holidays. The
17 denied applicant shall have the right to appeal the
18 denial within ten days of receiving written notice of
19 the denial. Such appeals shall be heard in small
20 claims court as defined in section 482.300, RSMo, and
21 the provisions of sections 482.300, 482.310 and
22 482.335, RSMo, shall apply to such appeals.

23 9. A denial of or refusal to act on an
24 application for permit may be appealed by filing with
25 the clerk of the small claims court a copy of the
26 sheriff's written refusal and a form substantially
27 similar to the appeal form provided in this section.
28 Appeal forms shall be provided by the clerk of the
29 small claims court free of charge to any person:

30
31 SMALL CLAIMS COURT

32
33 In the Circuit Court of
34 Missouri
35
36 Case Number
37
38
39, Denied Applicant)
40)
41 vs.)
42)
43, Sheriff)
44
45 Return Date
46
47
48

49 DENIAL OF PERMIT APPEAL

50 The denied applicant states that his properly
51 completed application for a permit to acquire a firearm

1 with a barrel of less than sixteen inches was denied by
2 the sheriff of County, Missouri,
3 without just cause. The denied applicant affirms that
4 all of the statements in the application are true.

5
6
7

8 Denied Applicant

9 10. The notice of appeal in a denial of permit
10 appeal shall be made to the sheriff in a manner and
11 form determined by the small claims court judge.

12 11. If at the hearing the person shows he is
13 entitled to the requested permit, the court shall issue
14 an appropriate order to cause the issuance of the
15 permit. Costs shall not be assessed against the
16 sheriff in any case.

17 12. Any person aggrieved by any final judgment
18 rendered by a small claims court in a denial of permit
19 appeal may have a trial de novo as provided in sections
20 512.180 to 512.320, RSMo.

21 13. Violation of any provision of this section is
22 a class A misdemeanor.]

23
24
25 ✓

26 _____
27

28
29
30 _____

31 Jack Goodman

Marilyn Ruestman