

# HOUSE BILL NO. 1644

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES RIDDLE (Sponsor), McGHEE, DIXON, DIEHL, BROWN (149), HOSKINS (121), GUERNSEY, ZERR, MOLENDORP, SMITH (150), FRANZ, BRUNS, CUNNINGHAM, JONES (117), NOLTE, STREAM, FLOOK, WALLACE, KINGERY, LOEHNER, SANDER, GATSCHENBERGER, DAY, WRIGHT, LAIR, FISHER (125), SMITH (14), FLANIGAN, ALLEN, WILSON (119), SCHAD, SCHOELLER, STEVENSON, LARGENT, CASEY, PACE, QUINN AND FISCHER (107) (Co-sponsors).

3408L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 563.061 and 630.155, RSMo, and to enact in lieu thereof two new sections relating to certain crimes involving mistreatment of a patient, with penalty provisions.

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

Section A. Sections 563.061 and 630.155, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 563.061 and 630.155, to read as follows:

563.061. 1. The use of physical force by an actor upon another person is justifiable when  
2 the actor is a parent, guardian or other person entrusted with the care and supervision of a minor  
3 or an incompetent person or when the actor is a teacher or other person entrusted with the care  
4 and supervision of a minor for a special purpose; and

5 (1) The actor reasonably believes that the force used is necessary to promote the welfare  
6 of a minor or incompetent person, or, if the actor's responsibility for the minor is for special  
7 purposes, to further that special purpose or to maintain reasonable discipline in a school, class  
8 or other group; and

9 (2) The force used is not designed to cause or believed to create a substantial risk of  
10 causing death, serious physical injury, disfigurement, extreme pain or extreme emotional  
11 distress; **or**

12 (3) **The actor is acting in self-defense.**

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.

13           2. A warden or other authorized official of a jail, prison or correctional institution may,  
14 in order to maintain order and discipline, use whatever physical force, including deadly force,  
15 that is authorized by law.

16           3. The use of physical force by an actor upon another person is justifiable when the actor  
17 is a person responsible for the operation of or the maintenance of order in a vehicle or other  
18 carrier of passengers and the actor reasonably believes that such force is necessary **for self-**  
19 **defense, defense of other passengers, or** to prevent interference with its operation or to  
20 maintain order in the vehicle or other carrier, except that deadly force may be used only when  
21 the actor reasonably believes it necessary to prevent death or serious physical injury.

22           4. The use of physical force by an actor upon another person is justified when the actor  
23 is a physician or a person assisting at his **or her** direction; and

24           (1) The force is used for the purpose of administering a medically acceptable form of  
25 treatment which the actor reasonably believes to be adapted to promoting the physical or mental  
26 health of the patient; and

27           (2) The treatment is administered with the consent of the patient or, if the patient is a  
28 minor or an incompetent person, with the consent of the parent, guardian, or other person legally  
29 competent to consent on his **or her** behalf, or the treatment is administered in an emergency  
30 when the actor reasonably believes that no one competent to consent can be consulted and that  
31 a reasonable person, wishing to safeguard the welfare of the patient, would consent; **or**

32           **(3) The force is used in self-defense.**

33           5. The use of physical force by an actor upon another person is justifiable when the actor  
34 acts under the reasonable belief that:

35           (1) Such other person is about to commit suicide or to inflict serious physical injury upon  
36 himself; and

37           (2) The force used is necessary to thwart such result.

38           6. The defendant shall have the burden of injecting the issue of justification under this  
39 section.

630.155. 1. A person commits the crime of "patient, resident or client abuse or neglect"  
2 against any person admitted on a voluntary or involuntary basis to any mental health facility or  
3 mental health program in which people may be civilly detained pursuant to chapter 632, RSMo,  
4 or any patient, resident or client of any residential facility, day program or specialized service  
5 operated, funded or licensed by the department if [he] **such person** knowingly does any of the  
6 following:

7           (1) Beats, strikes or injures any person, patient, resident or client, **except in self-defense**  
8 **or defense of others;**

9           (2) Mistreats or maltreats, handles or treats any such person, patient, resident or client  
10 in a brutal or inhuman manner;

11           (3) Uses any more force than is reasonably necessary for the proper control, treatment  
12 or management of such person, patient, resident or client, **or for self-defense or defense of**  
13 **others;**

14           (4) Fails to provide services which are reasonable and necessary to maintain the physical  
15 and mental health of any person, patient, resident or client when such failure presents either an  
16 imminent danger to the health, safety or welfare of the person, patient, resident or client, or a  
17 substantial probability that death or serious physical harm will result.

18           2. Patient, resident or client abuse or neglect is a class A misdemeanor unless committed  
19 under subdivision (2) or (4) of subsection 1 of this section in which case such abuse or neglect  
20 shall be a class D felony.

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