

SECOND REGULAR SESSION

HOUSE BILL NO. 2081

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RIDDLE (Sponsor), ZERR, KEENEY, ALLEN, SANDER, BROWN (149), FAITH, MUNZLINGER, WALLACE, GUERNSEY, LARGENT, JONES (117), JONES (89), PARSON, TILLEY, BRANDOM, RUESTMAN, PRATT AND TRACY (Co-sponsors).

4958L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 563.031, RSMo, and to enact in lieu thereof one new section relating to the use of force by a pregnant woman to defend her unborn child.

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

Section A. Section 563.031, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 563.031, to read as follows:

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

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

(a) He or she has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

18 2. A person may 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 another against death, serious physical injury, or any forcible felony; or

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

25 **(3) She is pregnant and she reasonably believes that such deadly force is necessary**
26 **to protect her unborn child.**

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

29 **4. A pregnant woman does not have a duty to retreat before using physical force**
30 **or deadly force to protect her unborn child, unless she knows that her retreat would secure**
31 **the complete safety of her unborn child and such retreat does not in and of itself create a**
32 **threat to her unborn child.**

33 **5.** The justification afforded by this section extends to the use of physical restraint as
34 protective force provided that the actor takes all reasonable measures to terminate the restraint
35 as soon as it is reasonable to do so.

36 [5.] **6.** The defendant shall have the burden of injecting the issue of justification under
37 this section.

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