

FIRST REGULAR SESSION

HOUSE BILL NO. 122

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCGAUGH.

0706L.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 deadly force.

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Section A. Section 563.031, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 563.031, to read as follows: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(a) He or she has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or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] **under** 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;

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

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.

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 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**
29 **property owner to occupy the property**, claiming a justification of using protective force under
30 this section.

31 3. A person does not have a duty to retreat from a dwelling, residence, or vehicle where
32 the person is not unlawfully entering or unlawfully remaining. A person does not have a duty
33 to retreat from private property that is owned or leased by such individual.

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

37 5. The defendant shall have the burden of injecting the issue of justification under this
38 section. If a defendant asserts that his or her use of force is described under subdivision (2) of
39 subsection 2 of this section, the burden shall then be on the state to prove beyond a reasonable
40 doubt that the defendant did not reasonably believe that the use of such force was necessary to
41 defend against what he or she reasonably believed was the use or imminent use of unlawful
42 force.

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