

FIRST REGULAR SESSION

# HOUSE BILL NO. 415

## 98TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE ADAMS.

0869H.011

D. ADAM CRUMBLISS, Chief Clerk

---

### AN ACT

To repeal section 563.046 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 563.046 as enacted by senate bill no. 60, seventy-ninth general assembly, first regular session, and to enact in lieu thereof one new section relating to use of force by a law enforcement officer.

---

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

Section A. Section 563.046 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 563.046 as enacted by senate bill no. 60, seventy-ninth general assembly, first regular session, are repealed and one new section enacted in lieu thereof, to be known as section 563.046, to read as follows:

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

2. The use of any physical force in making an arrest is not justified under this section unless the arrest is lawful or the law enforcement officer reasonably believes the arrest is lawful.

3. A law enforcement officer in effecting an arrest or in preventing an escape from custody is justified in using deadly force only:

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

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) When he or she reasonably believes that such use of deadly force is immediately  
14 necessary to effect the arrest and also reasonably believes that the person to be arrested:

15 (a) Has committed or attempted to commit a **violent felony and may otherwise**  
16 **endanger life or inflict serious physical injury unless arrested without delay;** or

17 (b) Is attempting to escape by use of a deadly weapon[; or

18 (c) May otherwise endanger life or inflict serious physical injury unless arrested without  
19 delay].

20 4. The defendant shall have the burden of injecting the issue of justification under this  
21 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 reasonably believes  
3 to have committed an offense because of resistance or threatened resistance of the arrestee. In  
4 addition to the use of physical force authorized under other sections of this chapter, he is, subject  
5 to the provisions of subsections 2 and 3, justified in the use of such physical force as he  
6 reasonably believes is immediately necessary to effect the arrest or to prevent the escape from  
7 custody.

8 2. The use of any physical force in making an arrest is not justified under this section  
9 unless the arrest is lawful or the law enforcement officer reasonably believes the arrest is lawful.

10 3. A law enforcement officer in effecting an arrest or in preventing an escape from  
11 custody is justified in using deadly force only:

12 (1) When such is authorized under other sections of this chapter; or

13 (2) When he reasonably believes that such use of deadly force is immediately necessary  
14 to effect the arrest and also reasonably believes that the person to be arrested

15 (a) Has committed or attempted to commit a **violent felony and may otherwise**  
16 **endanger life or inflict serious physical injury unless arrested without delay;** or

17 (b) Is attempting to escape by use of a deadly weapon[; or

18 (c) May otherwise endanger life or inflict serious physical injury unless arrested without  
19 delay].

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

✓