

SECOND REGULAR SESSION

# HOUSE BILL NO. 1530

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KELLEY (127).

4206H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 563.033, RSMo, and to enact in lieu thereof one new section relating to battered spouse syndrome.

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

Section A. Section 563.033, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 563.033, to read as follows:

563.033. 1. Evidence that the actor was suffering from the battered spouse syndrome shall be admissible upon the issue of whether the actor lawfully acted in self-defense or defense of another. **The standard for acting in lawful self-defense or defense of another is to be reduced from such standard established under section 563.031. Such reduction shall not require the defendant to believe he or she was in imminent danger but that he or she was in foreseeable danger. All other requirements for the self-defense or defense of another justification shall be fulfilled for the reduced standard to apply.**

2. If the defendant proposes to offer evidence of the battered spouse syndrome, he **or she** shall file written notice thereof with the court in advance of trial. Thereafter, the court, upon motion of the state, shall appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to intellectually disabled or mentally ill individuals, who are neither employees nor contractors of the department of mental health for the purposes of performing the examination in question, to examine the accused, or shall direct the director of the department of mental health, or his **or her** designee, to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to intellectually disabled 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.

18 mentally ill individuals designated by the director, or his **or her** designee, for the purpose of  
19 examining the defendant. No private psychiatrist, psychologist, or physician shall be appointed  
20 by the court unless he **or she** has consented to act. The examinations ordered shall be made at  
21 such time and place and under such conditions as the court deems proper; except that if the order  
22 directs the director of the department of mental health to have the accused examined, the  
23 director, or his **or her** designee, shall determine the reasonable time, place, and conditions under  
24 which the examination shall be conducted. The order may include provisions for the interview  
25 of witnesses.

26           3. No statement made by the accused in the course of any such examination and no  
27 information received by any physician or other person in the course thereof, whether such  
28 examination was made with or without the consent of the accused or upon his **or her** motion or  
29 upon that of others, shall be admitted in evidence against the accused on the issue of whether he  
30 **or she** committed the act charged against him **or her** in any criminal proceeding then or  
31 thereafter pending in any court, state or federal.

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