

FIRST REGULAR SESSION

HOUSE BILL NO. 668

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JONES (117) (Sponsor), WELLS, HOBBS, NANCE,
MOLENDORP, JONES (89), RIDDLE, MUNZLINGER, McNARY, DAVIS, LAIR, GUERNSEY,
THOMSON AND KEENEY (Co-sponsors).

1747L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 563.011 and 563.031, RSMo, and to enact in lieu thereof two new sections relating to the defensive use of force.

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

Section A. Sections 563.011 and 563.031, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 563.011 and 563.031, to read as follows:

563.011. As used in this chapter the following terms shall mean:

2 (1) "Deadly force", physical force which the actor uses with the purpose of causing or
3 which he or she knows to create a substantial risk of causing death or serious physical injury;

4 (2) "Dwelling", any building, inhabitable structure, or conveyance of any kind, whether
5 the building, inhabitable structure, or conveyance is temporary or permanent, mobile or
6 immobile, which has a roof over it, including a tent, and is designed to be occupied by people
7 lodging therein at night;

8 (3) "Forcible felony", any felony involving the use or threat of physical force or violence
9 against any individual, including but not limited to murder, robbery, burglary, arson, kidnapping,
10 assault, and any forcible sexual offense;

11 (4) "Premises", includes any building, inhabitable structure and any real property;

12 (5) "Private person", any person other than a law enforcement officer;

13 (6) **"Private property", any real property in this state that is privately owned or**
14 **leased;**

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.

15 (7) "Remain after unlawfully entering", to remain in or upon premises after unlawfully
16 entering as defined in this section;

17 [(7)] (8) "Residence", a dwelling in which a person resides either temporarily or
18 permanently or is visiting as an invited guest;

19 [(8)] (9) "Unlawfully enter", a person unlawfully enters in or upon premises **or private**
20 **property** when he or she enters such premises **or private property** and is not licensed or
21 privileged to do so. A person who, regardless of his or her purpose, enters in or upon **private**
22 **property or** premises that are at the time open to the public does so with license unless he or she
23 defies a lawful order not to enter, personally communicated to him or her by the owner of such
24 premises or by another authorized person. A license to enter in a building that is only partly open
25 to the public is not a license to enter in that part of the building that is not open to the public.

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

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

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

10 (b) He or she is a law enforcement officer and as such is an aggressor pursuant to section
11 563.046; or

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

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

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) Such force is used against a person who unlawfully enters, remains after**
26 **unlawfully entering, or attempts to unlawfully enter private property that is owned or**
27 **leased by an individual claiming a justification of using protective force under this section.**

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

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

34 5. The defendant shall have the burden of injecting the issue of justification under this
35 section.

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