

FIRST REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 122
98TH GENERAL ASSEMBLY

0706H.04P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 563.031, 571.030, and 571.111, RSMo, and to enact in lieu thereof three new sections relating to firearms, with penalty provisions.

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

Section A. Sections 563.031, 571.030, and 571.111, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 563.031, 571.030, and 571.111, to read as follows: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(a) He or she has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or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;

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 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.

571.030. 1. A person commits the crime of unlawful use of weapons if he or she
2 knowingly:

3 (1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or
4 any other weapon readily capable of lethal use; or

5 (2) Sets a spring gun; or

6 (3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft,
7 or motor vehicle as defined in section 302.010, or any building or structure used for the
8 assembling of people; or

9 (4) Exhibits, in the presence of one or more persons, any weapon readily capable of
10 lethal use in an angry or threatening manner; or

11 (5) Has a firearm or projectile weapon readily capable of lethal use on his or her person,
12 while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon
13 in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless
14 acting in self-defense; or

15 (6) Discharges a firearm within one hundred yards of any occupied schoolhouse,
16 courthouse, or church building; or

17 (7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or
18 across a public highway or discharges or shoots a firearm into any outbuilding; or

19 (8) Carries a firearm or any other weapon readily capable of lethal use into any church
20 or place where people have assembled for worship, or into any election precinct on any election
21 day, or into any building owned or occupied by any agency of the federal government, state
22 government, or political subdivision thereof; or

23 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section
24 301.010, discharges or shoots a firearm at any person, or at any other motor vehicle, or at any
25 building or habitable structure, unless the person was lawfully acting in self-defense; or

26 (10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable
27 of lethal use into any school, onto any school bus, or onto the premises of any function or activity
28 sponsored or sanctioned by school officials or the district school board; or

29 (11) Possesses a firearm while also knowingly in possession of a controlled substance
30 that is sufficient for a felony violation of section 195.202.

31 2. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to the
32 persons described in this subsection, regardless of whether such uses are reasonably associated
33 with or are necessary to the fulfillment of such person's official duties except as otherwise
34 provided in this subsection. Subdivisions (3), (4), (6), (7), and (9) of subsection 1 of this section
35 shall not apply to or affect any of the following persons, when such uses are reasonably
36 associated with or are necessary to the fulfillment of such person's official duties, except as
37 otherwise provided in this subsection:

38 (1) All state, county and municipal peace officers who have completed the training
39 required by the police officer standards and training commission pursuant to sections 590.030
40 to 590.050 and who possess the duty and power of arrest for violation of the general criminal
41 laws of the state or for violation of ordinances of counties or municipalities of the state, whether
42 such officers are on or off duty, and whether such officers are within or outside of the law
43 enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection
44 12 of this section, and who carry the identification defined in subsection 13 of this section, or

45 any person summoned by such officers to assist in making arrests or preserving the peace while
46 actually engaged in assisting such officer;

47 (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other
48 institutions for the detention of persons accused or convicted of crime;

49 (3) Members of the Armed Forces or National Guard while performing their official
50 duty;

51 (4) Those persons vested by Article V, Section 1 of the Constitution of Missouri with
52 the judicial power of the state and those persons vested by Article III of the Constitution of the
53 United States with the judicial power of the United States, the members of the federal judiciary;

54 (5) Any person whose bona fide duty is to execute process, civil or criminal;

55 (6) Any federal probation officer or federal flight deck officer as defined under the
56 federal flight deck officer program, 49 U.S.C. Section 44921 regardless of whether such officers
57 are on duty, or within the law enforcement agency's jurisdiction;

58 (7) Any state probation or parole officer, including supervisors and members of the
59 board of probation and parole;

60 (8) Any corporate security advisor meeting the definition and fulfilling the requirements
61 of the regulations established by the department of public safety under section 590.750;

62 (9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner;

63 (10) Any **municipal or county** prosecuting attorney or assistant prosecuting attorney[,]
64 ; circuit attorney or assistant circuit attorney[,] ; **municipal, associate circuit, or circuit judge**;
65 or any person appointed by a court to be a special prosecutor who has completed the firearms
66 safety training course required under subsection 2 of section 571.111;

67 (11) Any member of a fire department or fire protection district who is employed on a
68 full-time basis as a fire investigator and who has a valid concealed carry endorsement issued
69 prior to August 28, 2013, or a valid concealed carry permit under section 571.111 when such
70 uses are reasonably associated with or are necessary to the fulfillment of such person's official
71 duties; and

72 (12) Upon the written approval of the governing body of a fire department or fire
73 protection district, any paid fire department or fire protection district chief who is employed on
74 a full-time basis and who has a valid concealed carry endorsement issued prior to August 28,
75 2013, or a valid concealed carry permit, when such uses are reasonably associated with or are
76 necessary to the fulfillment of such person's official duties.

77 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when
78 the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when
79 ammunition is not readily accessible or when such weapons are not readily accessible.
80 Subdivision (1) of subsection 1 of this section does not apply to any person nineteen years of age

81 or older or eighteen years of age or older and a member of the United States Armed Forces, or
82 honorably discharged from the United States Armed Forces, transporting a concealable firearm
83 in the passenger compartment of a motor vehicle, so long as such concealable firearm is
84 otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or
85 projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon
86 premises over which the actor has possession, authority or control, or is traveling in a continuous
87 journey peaceably through this state. Subdivision (10) of subsection 1 of this section does not
88 apply if the firearm is otherwise lawfully possessed by a person while traversing school premises
89 for the purposes of transporting a student to or from school, or possessed by an adult for the
90 purposes of facilitation of a school-sanctioned firearm-related event or club event.

91 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any
92 person who has a valid concealed carry permit issued pursuant to sections 571.101 to 571.121,
93 a valid concealed carry endorsement issued before August 28, 2013, or a valid permit or
94 endorsement to carry concealed firearms issued by another state or political subdivision of
95 another state.

96 5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this section shall
97 not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031.

98 6. Notwithstanding any provision of this section to the contrary, the state shall not
99 prohibit any state employee from having a firearm in the employee's vehicle on the state's
100 property provided that the vehicle is locked and the firearm is not visible. This subsection shall
101 only apply to the state as an employer when the state employee's vehicle is on property owned
102 or leased by the state and the state employee is conducting activities within the scope of his or
103 her employment. For the purposes of this subsection, "state employee" means an employee of
104 the executive, legislative, or judicial branch of the government of the state of Missouri.

105 7. Nothing in this section shall make it unlawful for a student to actually participate in
106 school-sanctioned gun safety courses, student military or ROTC courses, or other
107 school-sponsored or club-sponsored firearm-related events, provided the student does not carry
108 a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or
109 onto the premises of any other function or activity sponsored or sanctioned by school officials
110 or the district school board.

111 8. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision
112 (6), (7), or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or
113 subdivision (5) or (10) of subsection 1 of this section, in which case it is a class A misdemeanor
114 if the firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of
115 subsection 1 of this section, in which case it is a class B felony, except that if the violation of

116 subdivision (9) of subsection 1 of this section results in injury or death to another person, it is
117 a class A felony.

118 9. Violations of subdivision (9) of subsection 1 of this section shall be punished as
119 follows:

120 (1) For the first violation a person shall be sentenced to the maximum authorized term
121 of imprisonment for a class B felony;

122 (2) For any violation by a prior offender as defined in section 558.016, a person shall be
123 sentenced to the maximum authorized term of imprisonment for a class B felony without the
124 possibility of parole, probation or conditional release for a term of ten years;

125 (3) For any violation by a persistent offender as defined in section 558.016, a person
126 shall be sentenced to the maximum authorized term of imprisonment for a class B felony without
127 the possibility of parole, probation, or conditional release;

128 (4) For any violation which results in injury or death to another person, a person shall
129 be sentenced to an authorized disposition for a class A felony.

130 10. Any person knowingly aiding or abetting any other person in the violation of
131 subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that
132 prescribed by this section for violations by other persons.

133 11. Notwithstanding any other provision of law, no person who pleads guilty to or is
134 found guilty of a felony violation of subsection 1 of this section shall receive a suspended
135 imposition of sentence if such person has previously received a suspended imposition of sentence
136 for any other firearms- or weapons-related felony offense.

137 12. As used in this section "qualified retired peace officer" means an individual who:

138 (1) Retired in good standing from service with a public agency as a peace officer, other
139 than for reasons of mental instability;

140 (2) Before such retirement, was authorized by law to engage in or supervise the
141 prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any
142 violation of law, and had statutory powers of arrest;

143 (3) Before such retirement, was regularly employed as a peace officer for an aggregate
144 of fifteen years or more, or retired from service with such agency, after completing any
145 applicable probationary period of such service, due to a service-connected disability, as
146 determined by such agency;

147 (4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such
148 a plan is available;

149 (5) During the most recent twelve-month period, has met, at the expense of the
150 individual, the standards for training and qualification for active peace officers to carry firearms;

151 (6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or
152 substance; and

153 (7) Is not prohibited by federal law from receiving a firearm.

154 13. The identification required by subdivision (1) of subsection 2 of this section is:

155 (1) A photographic identification issued by the agency from which the individual retired
156 from service as a peace officer that indicates that the individual has, not less recently than one
157 year before the date the individual is carrying the concealed firearm, been tested or otherwise
158 found by the agency to meet the standards established by the agency for training and qualification
159 for active peace officers to carry a firearm of the same type as the concealed firearm; or

160 (2) A photographic identification issued by the agency from which the individual retired
161 from service as a peace officer; and

162 (3) A certification issued by the state in which the individual resides that indicates that
163 the individual has, not less recently than one year before the date the individual is carrying the
164 concealed firearm, been tested or otherwise found by the state to meet the standards established
165 by the state for training and qualification for active peace officers to carry a firearm of the same
166 type as the concealed firearm.

571.111. 1. An applicant for a concealed carry permit shall demonstrate knowledge of
2 firearms safety training. This requirement shall be fully satisfied if the applicant for a concealed
3 carry permit:

4 (1) Submits a photocopy of a certificate of firearms safety training course completion,
5 as defined in subsection 2 of this section, signed by a qualified firearms safety instructor as
6 defined in subsection 5 of this section; or

7 (2) Submits a photocopy of a certificate that shows the applicant completed a firearms
8 safety course given by or under the supervision of any state, county, municipal, or federal law
9 enforcement agency; or

10 (3) Is a qualified firearms safety instructor as defined in subsection 5 of this section; or

11 (4) Submits proof that the applicant currently holds any type of valid peace officer
12 license issued under the requirements of chapter 590; or

13 (5) Submits proof that the applicant is currently allowed to carry firearms in accordance
14 with the certification requirements of section 217.710; or

15 (6) Submits proof that the applicant is currently certified as any class of corrections
16 officer by the Missouri department of corrections and has passed at least one eight-hour firearms
17 training course, approved by the director of the Missouri department of corrections under the
18 authority granted to him or her, that includes instruction on the justifiable use of force as
19 prescribed in chapter 563; or

20 (7) Submits a photocopy of a certificate of firearms safety training course completion
21 that was issued on August 27, 2011, or earlier so long as the certificate met the requirements of
22 subsection 2 of this section that were in effect on the date it was issued.

23 2. A certificate of firearms safety training course completion may be issued to any
24 applicant by any qualified firearms safety instructor. On the certificate of course completion the
25 qualified firearms safety instructor shall affirm that the individual receiving instruction has taken
26 and passed a firearms safety course of at least eight hours in length taught by the instructor that
27 included:

28 (1) Handgun safety in the classroom, at home, on the firing range and while carrying the
29 firearm;

30 (2) A physical demonstration performed by the applicant that demonstrated his or her
31 ability to safely load and unload either a revolver or a semiautomatic pistol and demonstrated his
32 or her marksmanship with either firearm;

33 (3) The basic principles of marksmanship;

34 (4) Care and cleaning of concealable firearms;

35 (5) Safe storage of firearms at home;

36 (6) The requirements of this state for obtaining a concealed carry permit from the sheriff
37 of the individual's county of residence;

38 (7) The laws relating to firearms as prescribed in this chapter;

39 (8) The laws relating to the justifiable use of force as prescribed in chapter 563;

40 (9) A live firing exercise of sufficient duration for each applicant to fire either a revolver
41 or a semiautomatic pistol, from a standing position or its equivalent, a minimum of twenty
42 rounds from the handgun at a distance of seven yards from a B-27 silhouette target or an
43 equivalent target;

44 (10) A live-fire test administered to the applicant while the instructor was present of
45 twenty rounds from either a revolver or a semiautomatic pistol from a standing position or its
46 equivalent at a distance from a B-27 silhouette target, or an equivalent target, of seven yards.

47 **3. A certificate of firearms safety training course completion may also be issued to**
48 **an applicant who presents proof to a qualified firearms safety instructor that the applicant**
49 **has passed a regular or online course on firearm safety conducted by an instructor certified**
50 **by the National Rifle Association that is at least one hour in length and who also passes the**
51 **requirements of subdivisions (1), (2), (6), (7), (8), (9), and (10) of subsection 2 of this section**
52 **in a course, not restricted by a period of hours, that is taught by a qualified firearms safety**
53 **instructor.**

54 4. A qualified firearms safety instructor shall not give a grade of passing to an applicant
55 for a concealed carry permit who:

56 (1) Does not follow the orders of the qualified firearms instructor or cognizant range
57 officer; or

58 (2) Handles a firearm in a manner that, in the judgment of the qualified firearm safety
59 instructor, poses a danger to the applicant or to others; or

60 (3) During the live-fire testing portion of the course fails to hit the silhouette portion of
61 the targets with at least fifteen rounds.

62 [4.] 5. Qualified firearms safety instructors who provide firearms safety instruction to
63 any person who applies for a concealed carry permit shall:

64 (1) Make the applicant's course records available upon request to the sheriff of the
65 county in which the applicant resides;

66 (2) Maintain all course records on students for a period of no less than four years from
67 course completion date; and

68 (3) Not have more than forty students per certified instructor in the classroom portion
69 of the course or more than five students per range officer engaged in range firing.

70 [5.] 6. A firearms safety instructor shall be considered to be a qualified firearms safety
71 instructor by any sheriff issuing a concealed carry permit pursuant to sections 571.101 to 571.121
72 if the instructor:

73 (1) Is a valid firearms safety instructor certified by the National Rifle Association
74 holding a rating as a personal protection instructor or pistol marksmanship instructor; or

75 (2) Submits a photocopy of a notarized certificate from a firearms safety instructor's
76 course offered by a local, state, or federal governmental agency; or

77 (3) Submits a photocopy of a notarized certificate from a firearms safety instructor
78 course approved by the department of public safety; or

79 (4) Has successfully completed a firearms safety instructor course given by or under the
80 supervision of any state, county, municipal, or federal law enforcement agency; or

81 (5) Is a certified police officer firearms safety instructor.

82 [6.] 7. Any firearms safety instructor qualified under subsection [5] 6 of this section may
83 submit a copy of a training instructor certificate, course outline bearing the notarized signature
84 of the instructor, and a recent photograph of the instructor to the sheriff of the county in which
85 the instructor resides. The sheriff shall review the training instructor certificate along with the
86 course outline and verify the firearms safety instructor is qualified and the course meets the
87 requirements provided under this section. If the sheriff verifies the firearms safety instructor is
88 qualified and the course meets the requirements provided under this section, the sheriff shall
89 collect an annual registration fee of ten dollars from each qualified instructor who chooses to
90 submit such information and submit the registration to the Missouri sheriff methamphetamine
91 relief taskforce. The Missouri sheriff methamphetamine relief taskforce, or its designated agent,

92 shall create and maintain a statewide database of qualified instructors. This information shall
93 be a closed record except for access by any sheriff. Firearms safety instructors may register
94 annually and the registration is only effective for the calendar year in which the instructor
95 registered. Any sheriff may access the statewide database maintained by the Missouri sheriff
96 methamphetamine relief taskforce to verify the firearms safety instructor is qualified and the
97 course offered by the instructor meets the requirements provided under this section. Unless a
98 sheriff has reason to believe otherwise, a sheriff shall presume a firearms safety instructor is
99 qualified to provide firearms safety instruction in counties throughout the state under this section
100 if the instructor is registered on the statewide database of qualified instructors.

101 [7.] **8.** Any firearms safety instructor who knowingly provides any sheriff with any false
102 information concerning an applicant's performance on any portion of the required training and
103 qualification shall be guilty of a class C misdemeanor. A violation of the provisions of this
104 section shall result in the person being prohibited from instructing concealed carry permit classes
105 and issuing certificates.

✓