

FIRST REGULAR SESSION

HOUSE BILL NO. 236

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRANKS JR.

0823H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 544.190 and 563.046, RSMo, and to enact in lieu thereof one new section relating to arrests made by law enforcement officers.

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

Section A. Sections 544.190 and 563.046, RSMo, are repealed and one new section
2 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
2 the arrest, or from efforts to prevent the escape from custody, of a person he or she reasonably
3 believes to have committed an offense because of resistance or threatened resistance of the
4 arrestee. In addition to the use of physical force authorized under other sections of this chapter,
5 a law enforcement officer is, subject to the provisions of subsections 2 and 3, justified in the use
6 of such physical force as he or she reasonably believes is immediately necessary to effect the
7 arrest or to prevent the escape from 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 and the amount of physical force used was objectively [~~reasonable~~] **necessary** in light of the
11 totality of the particular facts and circumstances confronting the officer on the scene, without
12 regard to the officer's underlying intent or motivation.

13 3. In effecting an arrest or in preventing an escape from custody, a law enforcement
14 officer is justified in using deadly force only:

15 (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.

16 (2) When the officer reasonably believes that such use of deadly force is immediately
17 necessary to effect the arrest or prevent an escape from custody and also reasonably believes that
18 the person to be arrested:

19 (a) Has committed or attempted to commit a felony offense involving the infliction or
20 threatened infliction of serious physical injury; or

21 (b) Is attempting to escape by use of a deadly weapon or dangerous instrument; or

22 (c) May otherwise endanger life or inflict serious physical injury to the officer or others
23 unless arrested without delay.

24 4. The defendant shall have the burden of injecting the issue of justification under this
25 section.

2 ~~[544.190. If, after notice of the intention to arrest the defendant, he either
flee or forcibly resist, the officer may use all necessary means to effect the arrest.]~~

✓