

FIRST REGULAR SESSION

HOUSE BILL NO. 234

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRANKS JR.

0833H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 590, RSMo, by adding thereto one new section relating to protesters' rights.

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

Section A. Chapter 590, RSMo, is amended by adding thereto one new section, to be
2 known as section 590.825, to read as follows:

**590.825. 1. The provisions of this section shall be known and may be cited as the
2 "First Amendment Protection Act".**

**3 2. Except as provided under subsection 3 of this section, no law enforcement officer
4 or agency shall declare an unlawful assembly under the provisions of section 574.040 for
5 the sole purpose of punishing persons for exercising their constitutional rights to engage
6 in expressive activity nor shall any law enforcement officer or agency:**

**7 (1) Use chemical agents, whatever the method of deployment, against any person
8 engaged in expressive, nonviolent activity in the absence of probable cause to arrest the
9 person and without first issuing clear and unambiguous warnings that the person is subject
10 to arrest and that such chemical agents will be used and providing the person sufficient
11 opportunity to heed the warnings and comply with lawful law enforcement commands;**

**12 (2) Use or threaten to use chemical agents, whatever the method of deployment,
13 against any person engaged in expressive, nonviolent activity for the purpose of punishing
14 the person for exercising his or her constitutional rights; or**

**15 (3) Issue orders or use chemical agents, whatever the method of deployment, for the
16 purpose of dispersing persons engaged in expressive, nonviolent activity without first
17 specifying, with reasonable particularity, the area from which dispersal is ordered; issuing
18 audible and unambiguous orders in a manner designed to notify all persons within the area**

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.

19 that dispersal is required and providing sufficient warnings of the consequences of failing
20 to disperse including, where applicable, that chemical agents will be used; providing a
21 sufficient and announced amount of time that is proximately related to the issuance of the
22 dispersal order in which to heed the warnings and exit the area; and announcing and
23 ensuring a means of safe egress from the area that is actually available to all persons.

24 3. The provisions of subsection 2 shall not apply when persons at the scene present
25 an imminent threat of violence or bodily harm to persons or damage to property or where
26 law enforcement officers or agencies are required to defend themselves or other persons
27 or property against imminent threat of violence.

28 4. For purposes of this section, "chemical agents" includes, but is not limited to,
29 mace or oleoresin capsicum spray; mist, pepper spray, or pepper gas; tear gas; skunk;
30 inert smoke; pepper pellets; and xylyl bromide.

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