

SECOND REGULAR SESSION

# HOUSE BILL NO. 1601

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BOSLEY.

3002H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal section 563.046, RSMo, and to enact in lieu thereof five new sections relating to law enforcement officer accountability, with penalty provisions.

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

Section A. Section 563.046, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 563.046, 590.1065, 590.1250, 590.1252, and 590.1256, to read as follows:

563.046. 1. A law enforcement officer need not retreat or desist from efforts to effect the arrest, or from efforts to prevent the escape from custody, of a person he or she reasonably believes to have committed an offense because of resistance or threatened resistance of the arrestee. In addition to the use of physical force authorized under other sections of this chapter, a law enforcement officer is, subject to the provisions of subsections 2 ~~[and]~~, 3, **and 4 of this section**, justified in the use of such physical force as he or she reasonably believes is immediately necessary to effect the arrest or to prevent the escape from custody.

2. The use of any physical force in making an arrest is not justified under this section unless the arrest is lawful or the law enforcement officer reasonably believes the arrest is lawful, and the amount of physical force used was objectively reasonable in light of the totality of the particular facts and circumstances confronting the officer on the scene, without regard to the officer's underlying intent or motivation.

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

(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  
18 that 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  
23 others unless arrested without delay.

24 **4. The use of a respiratory choke-hold for any purpose other than is authorized**  
25 **under section 590.805 shall be cause for the law enforcement officer's immediate**  
26 **dismissal and revocation of his or her license under chapter 590.**

27 **5. The defendant shall have the burden of injecting the issue of justification under this**  
28 **section.**

**590.1065. 1. A peace officer shall intervene to prevent or stop another peace**  
2 **officer from using physical force that exceeds the degree of force permitted under this**  
3 **chapter in pursuance of the other peace officer's law enforcement duties in carrying out**  
4 **an arrest of any person, placing any person under detention, taking any person into**  
5 **custody, booking any person, or in the process of crowd or riot control without regard to**  
6 **chain of command.**

7 **2. A peace officer who intervenes as required under subsection 1 of this section**  
8 **shall report the intervention to his or her immediate supervisor. At a minimum, the**  
9 **report required under this subsection shall include:**

10 (1) The date, time, and place of the occurrence;

11 (2) The identity, if known, and description of the participants; and

12 (3) A description of the intervention actions taken.

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14 **Such report shall be made in writing within ten days of the occurrence of the use of such**  
15 **force and shall be appended to all other reports of the incident.**

16 **3. A member of a law enforcement agency shall not discipline or retaliate in any**  
17 **way against a peace officer for intervening as required under subsection 1 of this**  
18 **section, reporting unconstitutional conduct, or failing to follow what the peace officer**  
19 **reasonably believes is an unconstitutional directive.**

20 **4. When an internal investigation finds that a peace officer failed to intervene or**  
21 **prevent the use of unlawful physical force under this section, such finding shall be**  
22 **presented to the prosecuting attorney for a determination as to whether charges should**  
23 **be filed. However, nothing in this subsection prohibits the prosecuting attorney from**

24 **charging a peace officer with failure to intervene before the conclusion of any internal**  
25 **investigation.**

26 **5. In addition to any criminal liability and penalty, when an internal**  
27 **investigation finds that a peace officer failed to intervene or prevent the use of**  
28 **unlawful physical force under this section in an incident resulting in serious bodily**  
29 **injury or death to any person, the peace officer's employer shall subject the peace**  
30 **officer to discipline, up to and including termination, to the extent permitted under**  
31 **applicable constitutional and statutory law, and the director shall revoke the peace**  
32 **officer's license under chapter 590 upon receipt of notice of the peace officer's discipline.**  
33 **Such revocation may only be overturned if the peace officer is exonerated by a court.**

34 **6. In a case in which the prosecution charges a peace officer with offenses related**  
35 **to and based on the use of excessive force but does not file charges against any other**  
36 **peace officer or officers who were at the scene during the use of force, the prosecuting**  
37 **attorney shall prepare a written report explaining his or her basis for the decision not to**  
38 **charge any other peace officer with criminal conduct and shall disclose the report to the**  
39 **public; except that, if disclosure of the report would substantially interfere with or**  
40 **jeopardize an ongoing criminal investigation, the prosecuting attorney may delay public**  
41 **disclosure for up to forty-five days. The prosecuting attorney shall post the written**  
42 **report on the prosecuting attorney office's website or, if the office does not have a**  
43 **website, make it publicly available upon request.**

44 **7. The offense of failing to intervene to prevent the use of unlawful force under**  
45 **this section is considered an act of complicity and the penalty for such act shall be equal**  
46 **to the penalty imposed against the peace officer who committed the original wrongdoing**  
47 **for which the peace officer failed to intervene. Nothing in this subsection shall prohibit**  
48 **or discourage prosecution of any other criminal offense related to failure to intervene,**  
49 **including a higher charge, if supported by the evidence.**

**590.1250. The provisions of sections 590.1250 to 590.1256 shall be known and**  
2 **may be cited as the "Law Enforcement Accountability Act".**

**590.1252. 1. All peace officers in this state shall wear a video camera affixed to**  
2 **the peace officer's uniform while on duty. The video camera shall record each**  
3 **interaction between a peace officer and a member of the public. The recording shall**  
4 **include both audio and video.**

5 **2. Law enforcement agencies shall preserve any recordings made by a video**  
6 **camera under this section for a minimum of sixty days and make such recordings**  
7 **available to the public through a state-wide database within fourteen days of any**  
8 **incident.**

9           **3. The provisions of this section shall not apply to detectives or other peace**  
10 **officers while they are working in an undercover capacity, or to any peace officer in any**  
11 **situation where the wearing of such a video camera would endanger the safety of the**  
12 **officer or the public.**

13           **4. Law enforcement agencies shall develop policies and procedures necessary to**  
14 **execute the provisions of this section prior to January 1, 2024.**

15           **5. The director of the department of public safety may promulgate all necessary**  
16 **rules and regulations for the administration of this section. Any rule or portion of a**  
17 **rule, as that term is defined in section 536.010, that is created under the authority**  
18 **delegated in this section shall become effective only if it complies with and is subject to**  
19 **all of the provisions of chapter 536 and, if applicable, section 536.028. This section and**  
20 **chapter 536 are nonseverable, and if any of the powers vested with the general assembly**  
21 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**  
22 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority**  
23 **and any rule proposed or adopted after August 28, 2024, shall be invalid and void.**

**590.1256. Notwithstanding any other provision of law, if any peace officer is**  
2 **convicted of or pleads guilty or nolo contendere to a crime involving the unlawful use or**  
3 **threatened use of physical force, or is found civilly liable for the use of unlawful physical**  
4 **force, the director shall revoke the peace officer's license under this chapter. The**  
5 **director shall not reinstate the peace officer's license or grant a new license to the peace**  
6 **officer unless the peace officer is exonerated by a court.**

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