

SECOND REGULAR SESSION

SENATE BILL NO. 763

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHAPPELLE-NADAL.

Pre-filed December 1, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4988S.01I

AN ACT

To repeal section 44.100, section 563.046 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 563.046 as enacted by senate bill no. 60, seventy-ninth general assembly, first regular session, RSMo, and to enact in lieu thereof six new sections relating to law enforcement officers, with a penalty provision.

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

Section A. Section 44.100, section 563.046 as enacted by senate bill no. 2 491, ninety-seventh general assembly, second regular session, and section 563.046 3 as enacted by senate bill no. 60, seventy-ninth general assembly, first regular 4 session, RSMo, are repealed and six new sections enacted in lieu thereof, to be 5 known as sections 44.100, 563.046, 590.707, 590.709, 590.711, and 590.810, to 6 read as follows:

44.100. 1. The emergency powers of the governor shall be as follows:

2 (1) The provisions of this section shall be operative only during the 3 existence of a state of emergency (referred to in this section as "emergency"). The 4 existence of an emergency may be proclaimed by the governor or by resolution of 5 the legislature, if the governor in his proclamation, or the legislature in its 6 resolution, finds that a natural or man-made disaster of major proportions has 7 actually occurred within this state, and that the safety and welfare of the 8 inhabitants of this state require an invocation of the provisions of this section;

9 (2) Any emergency, whether proclaimed by the governor or by the 10 legislature, shall terminate upon the proclamation thereof by the governor, or the 11 passage by the legislature, of a resolution terminating such emergency;

12 (3) During the period that the state of emergency exists or continues, the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 governor shall:

14 (a) Enforce and put into operation all plans, rules and regulations relating
15 to disasters and emergency management of resources adopted under this law and
16 to assume direct operational control of all emergency forces and volunteers in the
17 state;

18 (b) Take action and give directions to state and local law enforcement
19 officers and agencies as may be reasonable and necessary for the purpose of
20 securing compliance with the provisions of this law and with the orders, rules and
21 regulations made pursuant thereof;

22 (c) Seize, take or requisition to the extent necessary to bring about the
23 most effective protection of the public:

24 a. Any means of transportation, other than railroads and railroad
25 equipment and fuel, and all fuel necessary for the propulsion thereof;

26 b. Any communication system or part thereof necessary to the prompt and
27 efficient functioning of the emergency management of the state;

28 c. All stocks of fuel;

29 d. Facilities for housing, feeding and hospitalization of persons, including
30 buildings and plants;

31 (d) Control, restrict and regulate by rationing, freezing, use of quotas,
32 prohibitions on shipments, price fixing, allocation or other means the use, sale or
33 distribution of food, feed, fuel, clothing and other commodities, materials, goods
34 or services;

35 (e) Prescribe and direct activities in connection with but not limited to
36 use, conservation, salvage and prevention of waste of materials, services and
37 facilities, including production, transportation, power and communication
38 facilities, training and supply of labor, utilization of industrial plants, health and
39 medical care, nutrition, housing, including the use of existing and private
40 facilities, rehabilitation, education, welfare, child care, recreation, consumer
41 protection and other essential civil needs;

42 (f) Use or distribute all or any of this property among the inhabitants of
43 the state in any area adversely affected by a natural or man-made disaster and
44 to account to the state treasurer for any funds received thereof;

45 (g) Waive or suspend the operation of any statutory requirement or
46 administrative rule regarding the licensing, certification or issuance of permits
47 evidencing professional, mechanical or other skills;

48 (h) Waive or suspend the operation of any statutory requirement or

49 administrative rule prescribing procedures for conducting state business, where
50 strict compliance with such requirements and rules would prevent, hinder, or
51 delay necessary action by the department of health and senior services to respond
52 to a declared emergency or increased health threat to the population;

53 (i) In accordance with rules or regulations, provide that all law
54 enforcement authorities and other emergency response workers and agencies of
55 other states who may be within this state at the request of the governor or
56 pursuant to state or local mutual-aid agreements or compacts shall have the same
57 authority and possess the same powers, duties, rights, privileges and immunities
58 as are possessed by like law enforcement authorities and emergency response
59 workers and agencies of this state;

60 (j) Perform and exercise such other functions, powers and duties as may
61 be necessary to promote and secure the safety and protection of the civilian
62 population;

63 (k) Authorize the director of finance and the director of credit unions to
64 waive or suspend the operation of any statutory requirement or administrative
65 rule applicable to the division of finance, banking, financial services, or the
66 division of credit unions and take action and give direction to banks, credit
67 unions, and financial institutions, including coordinating actions with emergency
68 responders, federal agencies, and state banking and credit union associations as
69 may be reasonable and necessary to preserve the safety and soundness of banks,
70 credit unions, and financial institutions; and facilitate disaster response and
71 recovery efforts to serve essential civil needs and protect the public interest.

72 2. When any property is seized, taken or requisitioned under this section,
73 the circuit court of the county in which the property was taken may on the
74 application of the owner thereof or on the application of the governor in cases
75 where numerous claims may be filed, appoint three disinterested commissioners
76 in the manner provided by section 523.040 to assess the damages which the
77 owners may have sustained by reason of the appropriation thereof. Upon the
78 application the amount due because of the seizure of property shall be determined
79 in the manner provided in chapter 523 for the determination of damages in case
80 of the exercise of the power of eminent domain.

81 **3. If a state of emergency is proclaimed in response to civil**
82 **unrest, the governor shall, at the same time the emergency is**
83 **proclaimed:**

84 (1) Notify a third party human rights organization and ask the

85 **organization to monitor the activities of law enforcement officers in**
86 **response to the unrest and to report abuses of human, civil, or**
87 **constitutional rights to the attorney general's office; and**

88 **(2) Assign a sufficient number of state social workers,**
89 **counselors, or psychologists to provide counseling and mental health**
90 **services in the region affected by the unrest.**

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

9 2. The use of any physical force in making an arrest is not justified under
10 this section unless the arrest is lawful or the law enforcement officer reasonably
11 believes the arrest is lawful.

12 3. A law enforcement officer in effecting an arrest or in preventing an
13 escape from custody is justified in using deadly force only:

14 (1) When deadly force is authorized under other sections of this chapter;
15 or

16 (2) When [he or she reasonably believes that such use of deadly force is
17 immediately necessary to effect the arrest and also] **the officer** reasonably
18 believes that the person to be arrested[:

19 (a) Has committed or attempted to commit a felony; or

20 (b) Is attempting to escape by use of a deadly weapon; or

21 (c) May otherwise endanger life or inflict serious physical injury unless
22 arrested without delay] **poses a clear danger to the officer or any other**
23 **person.**

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

26 **5. Whenever a law enforcement officer uses deadly force upon**
27 **another person or inflicts an injury via a firearm, the attorney general**
28 **shall appoint a special prosecutor to investigate the incident, who shall**
29 **have the power and authority to file a criminal complaint, information,**
30 **or affidavit against the officer.**

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4 resistance or threatened resistance of the arrestee. In addition to the use of
5 physical force authorized under other sections of this chapter, he is, subject to the
6 provisions of subsections 2 and 3, justified in the use of such physical force as he
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27 **shall appoint a special prosecutor to investigate the incident, who shall**
28 **have the power and authority to file a criminal complaint, information,**
29 **or affidavit against the officer.**

590.707. Each law enforcement agency of the state, or any
2 **political subdivision of the state, shall be accredited or certified by the**
3 **commission on accreditation for law enforcement agencies or the**
4 **Missouri Police Chiefs Association by August 28, 2021. Any agency that**
5 **is not accredited or certified on or after August 28, 2021, shall be**
6 **ineligible to receive state appropriations from general revenue, federal**
7 **funds, or other funds while the agency remains unaccredited. The**

8 department of public safety shall maintain a list, open to public
9 inspection, of each agency that is accredited or certified.

590.709. 1. Each peace officer, while on duty, shall wear a video
2 camera affixed to the officer's uniform. The video camera shall be
3 capable of recording the audio and video of interactions between peace
4 officers and members of the public.

5 2. Each law enforcement agency of the state, or any political
6 subdivision of the state, shall preserve any recordings made by a video
7 camera under this section for a minimum of thirty calendar days and
8 shall develop any policies and procedures necessary to implement the
9 provisions of this section.

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

15 4. The department of public safety shall investigate all
16 complaints that a peace officer or law enforcement agency is not in
17 compliance with the provisions of this section. If the department
18 determines that a law enforcement agency, or any of the agency's
19 commissioned officers, is not in compliance with the requirements of
20 this section, the agency shall be ineligible to receive state
21 appropriations from general revenue, federal funds, or other funds
22 until the department determines the agency has achieved compliance.

590.711. 1. As used in this section, the following terms mean:

2 (1) "Hog tie", the act of fastening together the hands and the feet
3 of a person;

4 (2) "Protest", the assembly of people for the purpose of
5 expressing disapproval or objection to some person or thing. The term
6 "protest" shall not include any unlawful assembly, meaning an assembly
7 that a rational person in the area would reasonably believe will cause
8 injury to persons or damage to property and interfere with the rights
9 of others through the commission of disorderly acts.

10 2. Any peace officer on duty at a protest shall wear an accurate,
11 visible, identification tag displaying his or her full name.

12 3. No peace officer shall hog tie any person participating in a
13 protest.

14 4. No peace officer shall verbally abuse, degrade, or make
15 derogatory comments toward any person participating in a protest.

16 5. No peace officer shall release tear gas at a protest unless:

17 (1) The governor has declared a state of emergency; and

18 (2) The governor has notified an independent human rights
19 organization in accordance with section 44.100.

20 6. The department of public safety shall investigate all
21 complaints that a peace officer or law enforcement agency has violated
22 any provision of this section. If the department determines that a law
23 enforcement agency, or any of the agency's commissioned officers, has
24 violated any provision of this section, the agency shall be ineligible to
25 receive state appropriations from general revenue, federal funds, or
26 other funds for a period of one calendar year following the date of the
27 violation.

 590.810. 1. Any recording captured by a camera, which is
2 capable of recording video or audio and worn on the person of a peace
3 officer during the course of his or her official duties, shall not be a
4 public record for purposes of the state's open records law under
5 chapter 610 and shall not be disclosed by a law enforcement agency
6 except upon:

7 (1) An order of a court in the course of a criminal investigation
8 or prosecution or civil litigation;

9 (2) A request by any person who appears on the recording, or
10 such person's attorney, provided that the disclosure is limited to the
11 portion of the recording in which the person appears and any portion
12 of the recording contextually related to the portion of the recording in
13 which the person appears; or

14 (3) A request by a civilian review board.

15 2. No county or municipal ordinance shall require the retention
16 of any recording captured by a camera worn by an on-duty peace
17 officer for a period of more than two years, unless the recording has
18 been disclosed pursuant to subsection 1 of this section.

19 3. Each law enforcement agency that employs a peace officer who
20 wears a camera while on-duty shall destroy any recording captured by
21 the camera that has not been disclosed under subsection 1 of this
22 section within two years of the date the recording was captured.

23 4. The attorney general shall enforce the provisions of this

24 section and may impose a civil fine of twenty thousand dollars on a law
25 enforcement agency for each violation of subsection 1 or 3 of this
26 section.

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