

SENATE BILL NO. 1146

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR ESLINGER.

4244S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 563.031, RSMo, and to enact in lieu thereof one new section relating to self-defense.

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

Section A. Section 563.031, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 563.031,
3 to read as follows:

563.031. 1. A person may, subject to the provisions
2 of subsection 2 of this section, use physical force upon
3 another person when and to the extent he or she reasonably
4 believes such force to be necessary to defend himself or
5 herself or a third person from what he or she reasonably
6 believes to be the use or imminent use of unlawful force by
7 such other person, unless:

8 (1) The actor was the initial aggressor; except that
9 in such case his or her use of force is nevertheless
10 justifiable provided:

11 (a) He or she has withdrawn from the encounter and
12 effectively communicated such withdrawal to such other
13 person but the latter persists in continuing the incident by
14 the use or threatened use of unlawful force; or

15 (b) He or she is a law enforcement officer and as such
16 is an aggressor pursuant to section 563.046; or

17 (c) The aggressor is justified under some other
18 provision of this chapter or other provision of law;

19 (2) Under the circumstances as the actor reasonably
20 believes them to be, the person whom he or she seeks to
21 protect would not be justified in using such protective
22 force;

23 (3) The actor was attempting to commit, committing, or
24 escaping after the commission of a forcible felony.

25 2. A person shall not use deadly force upon another
26 person under the circumstances specified in subsection 1 of
27 this section unless:

28 (1) He or she reasonably believes that such deadly
29 force is necessary to protect himself, or herself or her
30 unborn child, or another against death, serious physical
31 injury, or any forcible felony;

32 (2) Such force is used against a person who unlawfully
33 enters, remains after unlawfully entering, or attempts to
34 unlawfully enter a dwelling, residence, **place of employment,**
35 or vehicle lawfully occupied by such person; or

36 (3) Such force is used against a person who unlawfully
37 enters, remains after unlawfully entering, or attempts to
38 unlawfully enter private property that is owned or leased by
39 an individual, or is occupied by an individual who has been
40 given specific authority by the property owner to occupy the
41 property, **or is a retail establishment or other place of**
42 **business wherein an individual using such force has a right**
43 **to be,** claiming a justification of using protective force
44 under this section.

45 3. A person does not have a duty to retreat:

46 (1) From a dwelling, residence, **place of employment,**
47 or vehicle where the person is not unlawfully entering or
48 unlawfully remaining;

49 (2) From private property that is owned or leased by
50 such individual; or

51 (3) If the person is in any other location such person
52 has the right to be.

53 4. The justification afforded by this section extends
54 to the use of physical restraint as protective force
55 provided that the actor takes all reasonable measures to
56 terminate the restraint as soon as it is reasonable to do so.

57 5. The defendant shall have the burden of injecting
58 the issue of justification under this section. If a
59 defendant asserts that his or her use of force is described
60 under subdivision (2) of subsection 2 of this section, the
61 burden shall then be on the state to prove beyond a
62 reasonable doubt that the defendant did not reasonably
63 believe that the use of such force was necessary to defend
64 against what he or she reasonably believed was the use or
65 imminent use of unlawful force.

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