

FIRST REGULAR SESSION

# HOUSE BILL NO. 709

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES FRASER (Sponsor), PARKER, JOHNSON (61),  
WRIGHT-JONES, OXFORD, CHAPPELLE-NADAL, BAKER (25),  
WILDBERGER AND DONNELLY (Co-sponsors).

Read 1<sup>st</sup> time March 3, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1763L.011

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### AN ACT

To repeal section 571.090, RSMo, and to enact in lieu thereof three new sections relating to domestic violence offenses, with penalty provisions.

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

Section A. Section 571.090, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 571.090, 571.300 and 571.310, to read as follows:

571.090. 1. A permit to acquire a concealable firearm shall be issued by the sheriff of the county in which the applicant resides, if all of the statements in the application are true, and the applicant:

(1) Is at least twenty-one years of age, a citizen of the United States and has resided in this state for at least six months;

(2) Has not pled guilty to or been convicted of [a] **domestic assault in the third degree under section 565.074, RSMo, a violation of an order of protection under section 455.085, RSMo, or any other** crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(3) Is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under

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.

15 the laws of any state and punishable by a term of imprisonment of two years or less that does not  
16 involve an explosive weapon, firearm, firearm silencer or gas gun;

17 (4) Has not been discharged under dishonorable conditions from the United States armed  
18 forces;

19 (5) Is not publicly known to be habitually in an intoxicated or drugged condition; [and]

20 (6) Is not currently adjudged mentally incompetent and has not been committed to a  
21 mental health facility, as defined in section 632.005, RSMo, or a similar institution located in  
22 another state; **and**

23 (7) **Is not the respondent of a valid full order of protection which is currently in**  
24 **effect.**

25 2. Applications shall be made to the sheriff of the county in which the applicant resides.  
26 An application shall be filed in writing, signed and verified by the applicant, and shall state only  
27 the following: the name, Social Security number, occupation, age, height, color of eyes and hair,  
28 residence and business addresses of the applicant, the reason for desiring the permit, and whether  
29 the applicant complies with each of the requirements specified in subsection 1 of this section.

30 3. Before a permit is issued, the sheriff shall make only such inquiries as [he] **the sheriff**  
31 deems necessary into the accuracy of the statements made in the application. The sheriff may  
32 require that the applicant display a Missouri operator's license or other suitable identification.  
33 The sheriff shall issue the permit within a period not to exceed seven days after submission of  
34 the properly completed application excluding Saturdays, Sundays or legal holidays. The sheriff  
35 may refuse to issue the permit if [he] **the sheriff** determines that any of the requirements  
36 specified in subsection 1 of this section have not been met, or if [he] **the sheriff** has reason to  
37 believe that the applicant has rendered a false statement regarding any of the provisions in  
38 subsection 1 of this section. If the application is approved, the sheriff shall issue a permit and  
39 a copy thereof to the applicant.

40 4. The permit shall recite the date of issuance, that it is invalid after thirty days, the name  
41 and address of the person to whom granted, the nature of the transaction, and a physical  
42 description of the applicant. The applicant shall sign the permit in the presence of the sheriff.

43 5. If the permit is used, the person who receives the permit from the applicant shall  
44 return it to the sheriff within thirty days after its expiration, with a notation thereon showing the  
45 date and manner of disposition of the firearm and a description of the firearm including the  
46 make, model and serial number. The sheriff shall keep a record of all applications for permits,  
47 [his] **the sheriff's** action thereon, and shall preserve all returned permits.

48 6. No person shall in any manner transfer, alter or change a permit, or make a false  
49 notation thereon, or obtain a permit upon any false representation, or use, or attempt to use a  
50 permit issued to another.

51 7. For the processing of the permit, the sheriff in each county and the city of St. Louis  
52 shall charge a fee not to exceed ten dollars which shall be paid into the treasury of the county or  
53 city to the credit of the general revenue fund.

54 8. In any case when the sheriff refuses to issue or to act on an application for a permit,  
55 such refusal shall be in writing setting forth the reasons for such refusal. Such written refusal  
56 shall explain the denied applicant's right to appeal and, with a copy of the completed application,  
57 shall be given to the denied applicant within a period not to exceed seven days after submission  
58 of the properly completed application excluding Saturdays, Sundays or legal holidays. The  
59 denied applicant shall have the right to appeal the denial within ten days of receiving written  
60 notice of the denial. Such appeals shall be heard in small claims court as defined in section  
61 482.300, RSMo, and the provisions of sections 482.300, 482.310 and 482.335, RSMo, shall  
62 apply to such appeals.

63 9. A denial of or refusal to act on an application for permit may be appealed by filing  
64 with the clerk of the small claims court a copy of the sheriff's written refusal and a form  
65 substantially similar to the appeal form provided in this section. Appeal forms shall be provided  
66 by the clerk of the small claims court free of charge to any person:

67

68 SMALL CLAIMS COURT

69 In the Circuit Court of ..... Missouri

70 Case Number .....

71 ....., Denied Applicant)

72 )

73 vs. )

74 )

75 ....., Sheriff )

76 Return Date .....

77

78

79 DENIAL OF PERMIT APPEAL

80 The denied applicant states that his properly completed application for a permit to acquire  
81 a firearm with a barrel of less than sixteen inches was denied by the sheriff of ..... County,  
82 Missouri, without just cause. The denied applicant affirms that all of the statements in the  
83 application are true.

84 .....

85 Denied Applicant

86 10. The notice of appeal in a denial of permit appeal shall be made to the sheriff in a

87 manner and form determined by the small claims court judge.

88 11. If at the hearing the person shows he **or she** is entitled to the requested permit, the  
89 court shall issue an appropriate order to cause the issuance of the permit. Costs shall not be  
90 assessed against the sheriff in any case.

91 12. Any person aggrieved by any final judgment rendered by a small claims court in a  
92 denial of permit appeal may have a trial de novo as provided in sections 512.180 to 512.320,  
93 RSMo.

94 13. Violation of any provision of this section is a class A misdemeanor.

**571.300. 1. When responding to the scene of an alleged act of domestic violence, a  
2 law enforcement officer may remove a firearm from the scene if:**

3 **(1) The law enforcement officer has probable cause to believe that an act of  
4 domestic violence has occurred; and**

5 **(2) The law enforcement officer has observed the firearm on the scene during the  
6 response.**

7 **2. If a firearm is removed from the scene under subsection 1 of this section, the law  
8 enforcement officer shall:**

9 **(1) Provide to the owner of the firearm information on the process for retaking  
10 possession of the firearm; and**

11 **(2) Provide for the safe storage of the firearm during the pendency of any  
12 proceeding related to the alleged act of domestic violence.**

13 **3. At the conclusion of a proceeding on the alleged act of domestic violence, the  
14 owner of the firearm may retake possession of the firearm unless ordered to surrender the  
15 firearm for a suspected violation of this chapter.**

**571.310. 1. It shall be unlawful for any person to possess any firearm or  
2 ammunition if such person:**

3 **(1) Has been convicted in any court of competent jurisdiction of a crime of domestic  
4 violence, regardless of imposition of sentence;**

5 **(2) Is subject to a court order that:**

6 **(a) Was issued after a hearing of which such person received actual notice, and at  
7 which such person had an opportunity to participate;**

8 **(b) Restrains such person from harassing, stalking, or threatening an intimate  
9 partner of such person or child of such intimate partner or person, or engaging in other  
10 conduct that would place an intimate partner in reasonable fear of bodily injury to the  
11 partner or child; and**

12 **(c) a. Includes a finding that such person represents a credible threat to the  
13 physical safety of such intimate partner or child; or**

14           **b. By its terms explicitly prohibits the use, attempted use, or threatened use of**  
15 **physical force against such intimate partner or child that would reasonably be expected**  
16 **to cause bodily injury.**

17           **2. Any person who violates this section is guilty of a class A misdemeanor.**