

SECOND REGULAR SESSION

# HOUSE BILL NO. 1958

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES NEWMAN (Sponsor), ATKINS, WEBB, JONES (63), OXFORD, STILL, LeVOTA, HODGES, WALTON GRAY, SCHOEMEHL, ENGLUND, KIRKTON, MORRIS, PACE, FISCHER (107), CARTER, SCHUPP, McNEIL, LOW, HUMMEL, YAEGER, LAMPE, COLONA, NASHEED AND CALLOWAY (Co-sponsors).

4616L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 43.545, 455.200, 455.545, and 565.063, RSMo, and to enact in lieu thereof six new sections relating to domestic violence, with penalty provisions.

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

Section A. Sections 43.545, 455.200, 455.545, and 565.063, RSMo, are repealed and six  
2 new sections enacted in lieu thereof, to be known as sections 43.545, 455.200, 455.545, 565.063,  
3 565.142, and 565.144, to read as follows:

43.545. The state highway patrol shall include in its voluntary system of reporting for  
2 compilation in the "Missouri Crime Index" all reported incidents of domestic violence, whether  
3 or not an arrest is made. All incidents shall be reported on forms provided by the highway patrol  
4 and in a manner prescribed by the patrol. For purposes of this section only, "domestic violence"  
5 shall be defined as any dispute arising between spouses, former spouses, persons related by blood  
6 or marriage, individuals who are presently residing together or have resided together in the past,  
7 **a person who is or has been in a continuing social relationship of a romantic or intimate**  
8 **nature with the victim**, and persons who have a child in common regardless of whether they  
9 have been married or have resided together at any time.

455.200. As used in sections 455.200 to 455.230, unless the context clearly requires  
2 otherwise, the following words and phrases mean:

3 (1) "Designated authority", the board, commission, agency, or other body designated  
4 under the provisions of section 455.210 as the authority to administer the allocation and  
5 distribution of funds to shelters;

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.

6 (2) "Domestic violence", [attempting to cause or causing bodily injury to a family or  
7 household member, or placing a family or household member by threat of force in fear of  
8 imminent physical harm] **includes but is not limited to the occurrence of any acts, attempts,**  
9 **or threats against a person who may be protected under sections 455.010 to 455.085;**

10 (3) "Family or household member", a spouse, a former spouse, [person living with  
11 another person whether or not as spouses, parent, or other adult person related by consanguinity  
12 or affinity, who is residing or has resided with the person committing the domestic violence and  
13 dependents of such persons] **adults who are presently residing together or have resided**  
14 **together in the past, an adult who is or has been in a continuing social relationship of a**  
15 **romantic or intimate nature with the victim, and adults who have a child in common**  
16 **regardless of whether they have been married or have resided together at any time;**

17 (4) "Shelter for victims of domestic violence" or "shelter", a facility established for the  
18 purpose of providing temporary residential service or facilities to family or household members  
19 who are victims of domestic violence.

455.545. The highway patrol shall compile an annual report of homicides and suicides  
2 related to domestic violence, **as defined in section 455.200**. Such report shall be presented by  
3 February first of the subsequent year to the governor, speaker of the house of representatives, and  
4 president pro tempore of the senate.

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

2 (1) "Domestic assault offense":

3 (a) The commission of the crime of domestic assault in the first degree or domestic  
4 assault in the second degree; or

5 (b) The commission of the crime of assault in the first degree or assault in the second  
6 degree if the victim of the assault was a family or household member;

7 (c) The commission of a crime in another state, or any federal, tribal, or military offense  
8 which, if committed in this state, would be a violation of any offense listed in paragraph (a) or  
9 (b) of this subdivision;

10 (2) "Family" or "household member", spouses, former spouses, adults related by blood  
11 or marriage, adults who are presently residing together or have resided together in the past, **an**  
12 **adult who is or has been in a continuing social relationship of a romantic or intimate**  
13 **nature with the victim**, and adults who have a child in common regardless of whether they have  
14 been married or have resided together at any time;

15 (3) "Persistent domestic violence offender", a person who has pleaded guilty to or has  
16 been found guilty of two or more domestic assault offenses, where such two or more offenses  
17 occurred within ten years of the occurrence of the domestic assault offense for which the person  
18 is charged; and

19 (4) "Prior domestic violence offender", a person who has pleaded guilty to or has been  
20 found guilty of one domestic assault offense, where such prior offense occurred within five years  
21 of the occurrence of the domestic assault offense for which the person is charged.

22 2. No court shall suspend the imposition of sentence as to a prior or persistent domestic  
23 violence offender pursuant to this section nor sentence such person to pay a fine in lieu of a term  
24 of imprisonment, section 557.011, RSMo, to the contrary notwithstanding, nor shall such person  
25 be eligible for parole or probation until such person has served a minimum of six months'  
26 imprisonment.

27 3. The court shall find the defendant to be a prior domestic violence offender or  
28 persistent domestic violence offender, if:

29 (1) The indictment or information, original or amended, or the information in lieu of an  
30 indictment pleads all essential facts warranting a finding that the defendant is a prior domestic  
31 violence offender or persistent domestic violence offender; and

32 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding  
33 beyond a reasonable doubt the defendant is a prior domestic violence offender or persistent  
34 domestic violence offender; and

35 (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt  
36 by the court that the defendant is a prior domestic violence offender or persistent domestic  
37 violence offender.

38 4. In a jury trial, such facts shall be pleaded, established and found prior to submission  
39 to the jury outside of its hearing.

40 5. In a trial without a jury or upon a plea of guilty, the court may defer the proof in  
41 findings of such facts to a later time, but prior to sentencing.

42 6. The defendant shall be accorded full rights of confrontation and cross-examination,  
43 with the opportunity to present evidence, at such hearings.

44 7. The defendant may waive proof of the facts alleged.

45 8. Nothing in this section shall prevent the use of presentence investigations or  
46 commitments.

47 9. At the sentencing hearing both the state and the defendant shall be permitted to present  
48 additional information bearing on the issue of sentence.

49 10. The pleas or findings of guilty shall be prior to the date of commission of the present  
50 offense.

51 11. The court shall not instruct the jury as to the range of punishment or allow the jury,  
52 upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of  
53 prior domestic violence offenders or persistent domestic violence offenders.

54           12. Evidence of prior convictions shall be heard and determined by the trial court out of  
55 the hearing of the jury prior to the submission of the case to the jury, and shall include but not  
56 be limited to evidence of convictions received by a search of the records of the Missouri uniform  
57 law enforcement system maintained by the Missouri state highway patrol. After hearing the  
58 evidence, the court shall enter its findings thereon.

59           13. Evidence of similar criminal convictions of domestic violence pursuant to this  
60 chapter, chapter 566, RSMo, or chapter 568, RSMo, within five years of the offense at issue,  
61 shall be admissible for the purposes of showing a past history of domestic violence.

62           14. Any person who has pleaded guilty to or been found guilty of a violation of section  
63 565.072 shall be sentenced to the authorized term of imprisonment for a class A felony if the  
64 court finds the offender is a prior domestic violence offender. The offender shall be sentenced  
65 to the authorized term of imprisonment for a class A felony which term shall be served without  
66 probation or parole if the court finds the offender is a persistent domestic violence offender or  
67 the prior domestic violence offender inflicts serious physical injury on the victim.

68           15. Any person who has pleaded guilty to or been found guilty of a violation of section  
69 565.073 shall be sentenced:

70           (1) To the authorized term of imprisonment for a class B felony if the court finds the  
71 offender is a prior domestic violence offender; or

72           (2) To the authorized term of imprisonment for a class A felony if the court finds the  
73 offender is a persistent domestic violence offender.

**565.142. 1. When responding to the scene of an alleged act of domestic assault, 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 assault 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 assault.**

13           **3. Within fourteen days of the conclusion of a proceeding on the alleged act of  
14 domestic assault, the owner of the firearm may retake possession of the firearm unless  
15 ordered to surrender the firearm under section 571.095.**

**565.144. 1. It shall be unlawful to possess a firearm for a person who:**

- 2           **(1) Is subject to a court order that:**
- 3           **(a) Was issued after a hearing of which such person received actual notice, and at**
- 4 **which such person had an opportunity to participate;**
- 5           **(b) Restrains such person from harassing, stalking, or threatening a family or**
- 6 **household member of such person or a child of such family or household member or**
- 7 **person, or engaging in other conduct that would place a family or household member in**
- 8 **reasonable fear of bodily injury to the family or household member or child; and**
- 9           **(c) Includes a finding that such person represents a credible threat to the physical**
- 10 **safety of such family or household member or a child; or by its terms explicitly prohibits**
- 11 **the use, attempted use, or threatened use of physical force against such family or household**
- 12 **member or child that would reasonably be expected to cause bodily injury; or**
- 13           **(2) Has been found guilty of or pleaded guilty to a misdemeanor crime of domestic**
- 14 **assault in a court of competent jurisdiction.**
- 15           **2. For the purposes of this section, the term "family" or "household member" shall**
- 16 **be defined as such term is defined in section 455.010.**
- 17           **3. It shall be a class D felony to violate the provisions of this section.**

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