

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 222, Page 16, Section 455.538, Line 32,
2 by inserting after all of said section and line, the following:

3
4 "455.545. The highway patrol shall compile an annual report of homicides and suicides
5 related to domestic violence. Such report shall be presented by February first of the subsequent year
6 to the governor, speaker of the house of representatives, and president pro tempore of the senate. For
7 purposes of this section, domestic violence includes, but is not limited to, the occurrence of any acts,
8 attempts, or threats against a person who may be protected under sections 455.010 to 455.085."; and

9
10 Further amend said bill, Page 16, Section 527.290, Line 14, by inserting after all of said section and
11 line, the following:

12
13 "565.063. 1. As used in this section, the following terms mean:

14 (1) "Domestic assault offense":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 8. Nothing in this section shall prevent the use of presentence investigations or
27 commitments.

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

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

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

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

40 13. Evidence of similar criminal convictions of domestic violence pursuant to this chapter,
41 chapter 566, or chapter 568 within five years of the offense at issue, shall be admissible for the

1 purposes of showing a past history of domestic violence.

2 14. Any person who has pleaded guilty to or been found guilty of a violation of section
3 565.072 shall be sentenced to the authorized term of imprisonment for a class A felony if the court
4 finds the offender is a prior domestic violence offender. The offender shall be sentenced to the
5 authorized term of imprisonment for a class A felony which term shall be served without probation
6 or parole if the court finds the offender is a persistent domestic violence offender or the prior
7 domestic violence offender inflicts serious physical injury on the victim.

8 15. Any person who has pleaded guilty to or been found guilty of a violation of section
9 565.073 shall be sentenced:

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

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

14 565.142. 1. When responding to the scene of an alleged act of domestic assault, a law
15 enforcement officer may remove a firearm from the scene if:

16 (1) The law enforcement officer has probable cause to believe that an act of domestic assault
17 has occurred; and

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

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

21 (1) Provide to the owner of the firearm information on the process for retaking possession of
22 the firearm; and

23 (2) Provide for the safe storage of the firearm during the pendency of any proceeding related
24 to the alleged act of domestic assault.

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

28 565.144. 1. It shall be unlawful to possess a firearm for a person who:

29 (1) Is subject to a court order that:

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

32 (b) Restrains such person from harassing, stalking, or threatening a family or household
33 member of such person or a child of such family or household member or person, or engaging in
34 other conduct that would place a family or household member in reasonable fear of bodily injury to
35 the family or household member or child; and

36 (c) Includes a finding that such person represents a credible threat to the physical safety of
37 such family or household member or a child; or by its terms explicitly prohibits the use, attempted
38 use, or threatened use of physical force against such family or household member or child that would
39 reasonably be expected to cause bodily injury; or

40 (2) Has been found guilty of or pleaded guilty to a misdemeanor crime of domestic assault in
41 a court of competent jurisdiction.

1 2. For the purposes of this section, the term "family" or "household member" shall be
2 defined as such term is defined in section 455.010.

3 3. It shall be a class D felony to violate the provisions of this section."; and

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5 Further amend said bill by amending the title, enacting clause, and intersectional references
6 accordingly.