

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Committee Substitute for Senate Bill No. 60, Page 3, Section 441.920, Line 59, by
2 inserting after said section and line the following:

3
4 "455.010. As used in this chapter, unless the context clearly indicates otherwise, the
5 following terms shall mean:

6 (1) "Abuse" includes but is not limited to the occurrence of any of the following acts,
7 attempts or threats against a person who may be protected pursuant to this chapter, except abuse
8 shall not include abuse inflicted on a child by accidental means by an adult household member or
9 discipline of a child, including spanking, in a reasonable manner:

10 (a) "Assault", purposely or knowingly placing or attempting to place another in fear of
11 physical harm;

12 (b) "Battery", purposely or knowingly causing physical harm to another with or without a
13 deadly weapon;

14 (c) "Coercion", compelling another by force or threat of force to engage in conduct from
15 which the latter has a right to abstain or to abstain from conduct in which the person has a right to
16 engage;

17 (d) "Harassment", engaging in a purposeful or knowing course of conduct involving more
18 than one incident that alarms or causes distress to an adult or child and serves no legitimate purpose.
19 The course of conduct must be such as would cause a reasonable adult or child to suffer substantial
20 emotional distress and must actually cause substantial emotional distress to the petitioner or child.
21 Such conduct might include, but is not limited to:

22 a. Following another about in a public place or places;

23 b. Peering in the window or lingering outside the residence of another; but does not include
24 constitutionally protected activity;

25 (e) "Sexual assault", causing or attempting to cause another to engage involuntarily in any
26 sexual act by force, threat of force, duress, or without that person's consent;

27 (f) "Unlawful imprisonment", holding, confining, detaining or abducting another person
28 against that person's will;

29 (2) "Adult", any person seventeen years of age or older or otherwise emancipated;

30 (3) "Child", any person under seventeen years of age unless otherwise emancipated;

31 (4) "Court", the circuit or associate circuit judge or a family court commissioner;

32 (5) "Domestic violence", abuse or stalking committed by a family or household member, as
33 such terms are defined in this section;

34 (6) "Ex parte order of protection", an order of protection issued by the court before the
35 respondent has received notice of the petition or an opportunity to be heard on it;

36 (7) "Extreme risk order of protection", either an ex parte order or full order of protection

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1 filed by a family or household member of the respondent or by a law enforcement officer or agency
 2 under subsection 10 of section 455.050;

3 (8) "Family" or "household member", spouses, former spouses, any person related by blood
 4 or marriage, persons who are presently residing together or have resided together in the past, any
 5 person who is or has been in a continuing social relationship of a romantic or intimate nature with
 6 the victim, and anyone who has a child in common regardless of whether they have been married or
 7 have resided together at any time;

8 [(8)] (9) "Full order of protection", an order of protection issued after a hearing on the
 9 record where the respondent has received notice of the proceedings and has had an opportunity to be
 10 heard;

11 [(9)] (10) "Order of protection", either an ex parte order of protection or a full order of
 12 protection;

13 [(10)] (11) "Pending", exists or for which a hearing date has been set;

14 [(11)] (12) "Petitioner", a family or household member who has been a victim of domestic
 15 violence, or any person who has been the victim of stalking or sexual assault, or a person filing on
 16 behalf of a child pursuant to section 455.503 who has filed a verified petition pursuant to the
 17 provisions of section 455.020 or section 455.505;

18 [(12)] (13) "Respondent", the family or household member alleged to have committed an act
 19 of domestic violence, or person alleged to have committed an act of stalking or sexual assault,
 20 against whom a verified petition has been filed or a person served on behalf of a child pursuant to
 21 section 455.503;

22 [(13)] (14) "Sexual assault", as defined under subdivision (1) of this section;

23 [(14)] (15) "Stalking" is when any person purposely engages in an unwanted course of
 24 conduct that causes alarm to another person, or a person who resides together in the same household
 25 with the person seeking the order of protection when it is reasonable in that person's situation to
 26 have been alarmed by the conduct. As used in this subdivision:

27 (a) "Alarm" means to cause fear of danger of physical harm; and

28 (b) "Course of conduct" means a pattern of conduct composed of two or more acts over a
 29 period of time, however short, that serves no legitimate purpose. Such conduct may include, but is
 30 not limited to, following the other person or unwanted communication or unwanted contact.

31 455.050. 1. Any full or ex parte order of protection granted pursuant to sections 455.010 to
 32 455.085 shall be to protect the petitioner from domestic violence, stalking, or sexual assault and
 33 may include such terms as the court reasonably deems necessary to ensure the petitioner's safety,
 34 including but not limited to:

35 (1) Temporarily enjoining the respondent from committing or threatening to commit
 36 domestic violence, molesting, stalking, sexual assault, or disturbing the peace of the petitioner;

37 (2) Temporarily enjoining the respondent from entering the premises of the dwelling unit of
 38 the petitioner when the dwelling unit is:

39 (a) Jointly owned, leased or rented or jointly occupied by both parties; or

40 (b) Owned, leased, rented or occupied by petitioner individually; or

41 (c) Jointly owned, leased, rented or occupied by petitioner and a person other than
 42 respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of
 43 the absence of a property interest in the dwelling unit; or

44 (d) Jointly occupied by the petitioner and a person other than respondent; provided that the
 45 respondent has no property interest in the dwelling unit; or

46 (3) Temporarily enjoining the respondent from communicating with the petitioner in any
 47 manner or through any medium.

48 2. Mutual orders of protection are prohibited unless both parties have properly filed written
 49 petitions and proper service has been made in accordance with sections 455.010 to 455.085.

1 3. When the court has, after a hearing for any full order of protection, issued an order of
2 protection, it may, in addition:

3 (1) Award custody of any minor child born to or adopted by the parties when the court has
4 jurisdiction over such child and no prior order regarding custody is pending or has been made, and
5 the best interests of the child require such order be issued;

6 (2) Establish a visitation schedule that is in the best interests of the child;

7 (3) Award child support in accordance with supreme court rule 88.01 and chapter 452;

8 (4) Award maintenance to petitioner when petitioner and respondent are lawfully married in
9 accordance with chapter 452;

10 (5) Order respondent to make or to continue to make rent or mortgage payments on a
11 residence occupied by the petitioner if the respondent is found to have a duty to support the
12 petitioner or other dependent household members;

13 (6) Order the respondent to pay the petitioner's rent at a residence other than the one
14 previously shared by the parties if the respondent is found to have a duty to support the petitioner
15 and the petitioner requests alternative housing;

16 (7) Order that the petitioner be given temporary possession of specified personal property,
17 such as automobiles, checkbooks, keys, and other personal effects;

18 (8) Prohibit the respondent from transferring, encumbering, or otherwise disposing of
19 specified property mutually owned or leased by the parties;

20 (9) Order the respondent to participate in a court-approved counseling program designed to
21 help batterers stop violent behavior or to participate in a substance abuse treatment program;

22 (10) Order the respondent to pay a reasonable fee for housing and other services that have
23 been provided or that are being provided to the petitioner by a shelter for victims of domestic
24 violence;

25 (11) Order the respondent to pay court costs;

26 (12) Order the respondent to pay the cost of medical treatment and services that have been
27 provided or that are being provided to the petitioner as a result of injuries sustained to the petitioner
28 by an act of domestic violence committed by the respondent.

29 4. A verified petition seeking orders for maintenance, support, custody, visitation, payment
30 of rent, payment of monetary compensation, possession of personal property, prohibiting the
31 transfer, encumbrance, or disposal of property, or payment for services of a shelter for victims of
32 domestic violence, shall contain allegations relating to those orders and shall pray for the orders
33 desired.

34 5. In making an award of custody, the court shall consider all relevant factors including the
35 presumption that the best interests of the child will be served by placing the child in the custody and
36 care of the nonabusive parent, unless there is evidence that both parents have engaged in abusive
37 behavior, in which case the court shall not consider this presumption but may appoint a guardian ad
38 litem or a court-appointed special advocate to represent the children in accordance with chapter 452
39 and shall consider all other factors in accordance with chapter 452.

40 6. The court shall grant to the noncustodial parent rights to visitation with any minor child
41 born to or adopted by the parties, unless the court finds, after hearing, that visitation would endanger
42 the child's physical health, impair the child's emotional development or would otherwise conflict
43 with the best interests of the child, or that no visitation can be arranged which would sufficiently
44 protect the custodial parent from further domestic violence. The court may appoint a guardian ad
45 litem or court-appointed special advocate to represent the minor child in accordance with chapter
46 452 whenever the custodial parent alleges that visitation with the noncustodial parent will damage
47 the minor child.

48 7. The court shall make an order requiring the noncustodial party to pay an amount
49 reasonable and necessary for the support of any child to whom the party owes a duty of support

1 when no prior order of support is outstanding and after all relevant factors have been considered, in
2 accordance with Missouri supreme court rule 88.01 and chapter 452.

3 8. The court may grant a maintenance order to a party for a period of time, not to exceed
4 one hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter
5 452.

6 9. (1) The court may, in order to ensure that a petitioner can maintain an existing wireless
7 telephone number or numbers, issue an order, after notice and an opportunity to be heard, directing a
8 wireless service provider to transfer the billing responsibility for and rights to the wireless telephone
9 number or numbers to the petitioner, if the petitioner is not the wireless service accountholder.

10 (2) (a) The order transferring billing responsibility for and rights to the wireless telephone
11 number or numbers to the petitioner shall list the name and billing telephone number of the
12 accountholder, the name and contact information of the person to whom the telephone number or
13 numbers will be transferred, and each telephone number to be transferred to that person. The court
14 shall ensure that the contact information of the petitioner is not provided to the accountholder in
15 proceedings held under this chapter.

16 (b) Upon issuance, a copy of the full order of protection shall be transmitted, either
17 electronically or by certified mail, to the wireless service provider's registered agent listed with the
18 secretary of state, or electronically to the email address provided by the wireless service provider.
19 Such transmittal shall constitute adequate notice for the wireless service provider acting under this
20 section and section 455.523.

21 (c) If the wireless service provider cannot operationally or technically effectuate the order
22 due to certain circumstances, the wireless service provider shall notify the petitioner within three
23 business days. Such circumstances shall include, but not be limited to, the following:

- 24 a. The accountholder has already terminated the account;
- 25 b. The differences in network technology prevent the functionality of a device on the
26 network; or
- 27 c. There are geographic or other limitations on network or service availability.

28 (3) (a) Upon transfer of billing responsibility for and rights to a wireless telephone number
29 or numbers to the petitioner under this subsection by a wireless service provider, the petitioner shall
30 assume all financial responsibility for the transferred wireless telephone number or numbers,
31 monthly service costs, and costs for any mobile device associated with the wireless telephone
32 number or numbers.

33 (b) This section shall not preclude a wireless service provider from applying any routine and
34 customary requirements for account establishment to the petitioner as part of this transfer of billing
35 responsibility for a wireless telephone number or numbers and any devices attached to that number
36 or numbers including, but not limited to, identification, financial information, and customer
37 preferences.

38 (4) This section shall not affect the ability of the court to apportion the assets and debts of
39 the parties as provided for in law, or the ability to determine the temporary use, possession, and
40 control of personal property.

41 (5) No cause of action shall lie against any wireless service provider, its officers, employees,
42 or agents, for actions taken in accordance with the terms of a court order issued under this section.

43 (6) As used in this section and section 455.523, a "wireless service provider" means a
44 provider of commercial mobile service under Section ~~[332(d)]~~ 332 of the ~~[Federal~~
45 ~~Telecommunications Act of 1996 (47 U.S.C. Section 151, et seq.)]~~ federal Communications Act of
46 1934 (47 U.S.C. Section 332(d)).

47 10. (1) A petition for an extreme risk order of protection shall:

48 (a) Allege that the respondent poses a significant danger of personal injury to himself,
49 herself, or others by having in his or her custody or control, purchasing, possessing, or receiving a

firearm and shall be accompanied by an affidavit made under oath stating the specific statements, actions, or facts that support a reasonable fear of future dangerous acts by the respondent;

(b) Identify the number, types, and locations of any firearms the petitioner believes to be in the respondent's current ownership, possession, custody, or control;

(c) Identify whether a lawsuit, complaint, petition, or other action is pending between the parties to the petition in a Missouri court; and

(d) Identify if the petitioner has actual knowledge that the respondent is licensed to carry a concealed weapon and if carrying a concealed weapon is a condition of the respondent's employment.

(2) The court may grant an extreme risk order of protection. Upon receiving a petition seeking an extreme risk order of protection, the court shall conduct a hearing to determine whether to issue the order. The hearing shall be conducted no later than:

(a) Fourteen days after the petition is filed; or

(b) If the respondent is a family or household member of the petitioner, five days after the petition is filed.

(3) The court clerk or administrator shall verify the terms of any existing order governing the parties. The court shall not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A petition for an extreme risk protection order shall be considered regardless of an action pending between the parties.

(4) If the petitioner is a law enforcement officer or agency, the petitioner shall make a good faith effort to provide notice to a family or household member of the respondent and to known third parties who may be at risk of violence. The notice shall state that the petitioner intends to petition or has petitioned the court for an extreme risk order of protection and shall include referrals to appropriate resources, including mental health, domestic violence, and counseling resources. In the petition, the petitioner shall attest to whether such notice was provided or the steps the petitioner shall take to provide such notice.

(5) If the petition states that disclosure of the petitioner's address would risk harm to the petitioner or any member of the petitioner's family or household, the petitioner's address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner shall designate an alternative address at which the respondent may serve notices. If the petitioner is a law enforcement officer or agency, the address of record shall be that of the law enforcement agency.

(6) No court or other public agency shall charge a fee for filing or service of process to petitioners seeking relief under this subsection. Petitioners shall be provided the necessary number of certified copies, forms, and instructional brochures free of charge.

(7) A person is not required to post a bond to obtain relief in any proceeding under this subsection.

11. (1) Upon the issuance of any extreme risk order of protection, the court shall order the respondent to surrender to the respondent's local law enforcement agency all firearms in the respondent's custody, control, or possession. If the respondent is identified in the petition as licensed to carry a concealed weapon and carrying a concealed weapon is a condition of the respondent's employment, the court shall notify the respondent's employer of the existence of the order.

(2) The law enforcement officer serving an extreme risk order of protection shall provide the respondent an opportunity to comply with the order by surrendering all firearms in his or her custody, control, or possession. If the respondent does not comply, the law enforcement officer serving the order shall:

(a) Place him or her into the custody of the law enforcement agency serving the order, yet

1 only for the duration of the lawful search conducted pursuant to paragraph (b) of this subdivision;

2 (b) Conduct a lawful search of the respondent and any area where probable cause exists that
3 a firearm to be surrendered pursuant to the order may be located; and

4 (c) Take possession of all firearms belonging to the respondent that are surrendered, in plain
5 sight, or discovered pursuant to a lawful search.

6 (3) If in-person service of the order by a law enforcement officer is not possible or not
7 required because the respondent was present at the extreme risk order of protection hearing, the
8 respondent shall surrender the firearms in a safe manner to the control of the local law enforcement
9 agency within forty-eight hours of receiving service of the order or within forty-eight hours of the
10 hearing or final decision at which the respondent was present.

11 (4) At the time of surrender, a law enforcement officer taking possession of a firearm shall
12 issue a receipt identifying all firearms surrendered and provide a copy of the receipt to the
13 respondent. Within seventy-two hours after service of the order, the officer shall file the original
14 receipt with the court and shall ensure that his or her law enforcement agency retains a copy of the
15 receipt.

16 (5) Upon the sworn statement or testimony of the petitioner or of any law enforcement
17 officer that alleges that the respondent has failed to comply with the surrender of firearms as
18 required by an order issued under subsections 10 to 12 of this section, the court shall determine
19 whether probable cause exists to believe that the respondent has failed to surrender all firearms in
20 his or her possession, custody, or control. If probable cause exists, the court shall issue a warrant
21 describing the firearms, authorizing a search of the locations where the firearms are reasonably
22 believed to be located, and authorizing the seizure of any firearms discovered pursuant to such
23 search.

24 (6) If a person other than the respondent claims title to any firearms surrendered under
25 subsections 10 to 12 of this section and the law enforcement agency determines he or she is the
26 lawful owner of the firearm, the firearm shall be returned to him or her, provided:

27 (a) The firearm is removed from the respondent's custody, control, or possession, and the
28 lawful owner agrees to store the firearm in a manner such that the respondent does not have access
29 to or control of the firearm; and

30 (b) The firearm is not otherwise unlawfully possessed by the owner.

31 (7) A respondent to an extreme risk order of protection may file a motion to modify or
32 rescind the order of protection. The respondent may request a hearing on such a motion with the
33 court that issued the original extreme risk order of protection. Any motion to modify or rescind an
34 extreme risk order of protection shall be filed by the respondent no later than fourteen days after the
35 respondent is served with the order or fourteen days after the respondent receives actual notice of
36 the order unless good cause is shown for filing the motion after fourteen days. The court shall
37 conduct a hearing on the motion to modify or rescind an extreme risk order of protection no later
38 than:

39 (a) Fourteen days after the motion is filed; or

40 (b) If the respondent is a family or household member of the petitioner, five days after the
41 motion is filed.

42 12. If an extreme risk protection order is terminated or expires without renewal, a law
43 enforcement agency that holds any firearm surrendered pursuant to subsections 10 to 12 of this
44 section shall return any surrendered firearm a respondent requests only after confirming, through a
45 background check administered by the state highway patrol under section 43.540, that the
46 respondent is currently eligible to own or possess firearms under federal and state law and after
47 confirming with the court that the extreme risk protection order terminated or expired without
48 renewal.

49 13. (1) The court that issued the original extreme risk order of protection may, on either its

own or the petitioner's motion, renew the extreme risk order of protection if probable cause is shown that the respondent continues to pose a significant risk of personal injury to himself, herself, or others by possessing a firearm. The extreme risk order of protection may be renewed for up to one year from the expiration of the preceding extreme risk order of protection. Written notice of a hearing on the motion to renew an extreme risk order of protection shall be given to the respondent by the party who makes the motion.

(2) A law enforcement agency shall, if requested, provide prior notice of the return of a firearm to a respondent, to a respondent's family, or to a household member of the respondent.

(3) Any firearm surrendered by a respondent pursuant to subsection 11 of this section that remains unclaimed by the lawful owner shall be disposed in accordance with the law enforcement agency's policies and procedures for the disposal of firearms in police custody.

14. The clerk of any court that issues an extreme risk order of protection shall send the Missouri state highway patrol a copy of the order issued by that court within forty-eight hours of the court issuing the order. Upon receiving an extreme risk order of protection, the Missouri state highway patrol shall enter the extreme risk order of protection into the Missouri uniform law enforcement system (MULES) within forty-eight hours of receiving notice of the order.

15. (1) A person who refuses or fails to comply with an extreme risk order of protection shall be subject to the criminal contempt powers of the court and, if found guilty, may be imprisoned for no more than one hundred eighty days or may be fined no more than one thousand dollars, or both. The criminal penalty provided under this subsection may be imposed in addition to a penalty imposed for another criminal offense arising from the same conduct.

(2) A plaintiff who knowingly and intentionally makes a false statement to the court in the petition or in support of the petition is subject to the contempt powers of the court."; and

Further amend said bill, Page 4, Section 567.050, Line 40, by inserting after all of said line the following:

"571.070. 1. A person commits the offense of unlawful possession of a firearm if such person knowingly has any firearm in his or her possession and:

(1) Such person has been convicted of a felony under the laws of this state, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a felony; ~~[or]~~

(2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent; or

(3) Such person is subject to an extreme risk order of protection, as defined under section 455.010.

2. Unlawful possession of a firearm is a class D felony.

3. The provisions of subdivision (1) of subsection 1 of this section shall not apply to the possession of an antique firearm."; and

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