

HOUSE AMENDMENT NO. _____
TO
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Offered By

AMEND House Amendment No. _____ to House Bill No. 575, Page 1 Line 4, by deleting said line and inserting in lieu thereof the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) "Ex parte order of protection", an order of protection issued by the court before the

Action Taken _____ Date _____

respondent has received notice of the petition or an opportunity to be heard on it;

(7) "Extreme risk order of protection", either an ex parte order or full order of protection filed by a family or household member of the respondent or by a law enforcement officer or agency under subsection 10 of section 455.050;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 6. The court shall grant to the noncustodial parent rights to visitation with any minor child
43 born to or adopted by the parties, unless the court finds, after hearing, that visitation would endanger
44 the child's physical health, impair the child's emotional development or would otherwise conflict
45 with the best interests of the child, or that no visitation can be arranged which would sufficiently
46 protect the custodial parent from further domestic violence. The court may appoint a guardian ad
47 litem or court-appointed special advocate to represent the minor child in accordance with chapter
48 452 whenever the custodial parent alleges that visitation with the noncustodial parent will damage
49 the minor child.

1 7. The court shall make an order requiring the noncustodial party to pay an amount
2 reasonable and necessary for the support of any child to whom the party owes a duty of support
3 when no prior order of support is outstanding and after all relevant factors have been considered, in
4 accordance with Missouri supreme court rule 88.01 and chapter 452.

5 8. The court may grant a maintenance order to a party for a period of time, not to exceed
6 one hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter
7 452.

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

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

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

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

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

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

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

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

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

45 (6) As used in this section and section 455.523, a "wireless service provider" means a
46 provider of commercial mobile service under Section ~~[332(d)]~~ 332 of the ~~[Federal~~
47 ~~Telecommunications Act of 1996 (47 U.S.C. Section 151, et seq.)]~~ federal Communications Act of
48 1934 (47 U.S.C. Section 332(d)).

49 10. (1) A petition for an extreme risk order of protection shall:

1 (a) Allege that the respondent poses a significant danger of personal injury to himself,
2 herself, or others by having in his or her custody or control, purchasing, possessing, or receiving a
3 firearm and shall be accompanied by an affidavit made under oath stating the specific statements,
4 actions, or facts that support a reasonable fear of future dangerous acts by the respondent;

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

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

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

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

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

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

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

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

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

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

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

41 11. (1) Upon the issuance of any extreme risk order of protection, the court shall order the
42 respondent to surrender to the respondent's local law enforcement agency all firearms in the
43 respondent's custody, control, or possession. If the respondent is identified in the petition as
44 licensed to carry a concealed weapon and carrying a concealed weapon is a condition of the
45 respondent's employment, the court shall notify the respondent's employer of the existence of the
46 order.

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

1 serving the order shall:

2 (a) Place him or her into the custody of the law enforcement agency serving the order, yet
3 only for the duration of the lawful search conducted pursuant to paragraph (b) of this subdivision;

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

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

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

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

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

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

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

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

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

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

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

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

1 renewal.

2 13. (1) The court that issued the original extreme risk order of protection may, on either its
 3 own or the petitioner's motion, renew the extreme risk order of protection if probable cause is shown
 4 that the respondent continues to pose a significant risk of personal injury to himself, herself, or
 5 others by possessing a firearm. The extreme risk order of protection may be renewed for up to one
 6 year from the expiration of the preceding extreme risk order of protection. Written notice of a
 7 hearing on the motion to renew an extreme risk order of protection shall be given to the respondent
 8 by the party who makes the motion.

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

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

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

19 15. (1) A person who refuses or fails to comply with an extreme risk order of protection
 20 shall be subject to the criminal contempt powers of the court and, if found guilty, may be imprisoned
 21 for no more than one hundred eighty days or may be fined no more than one thousand dollars, or
 22 both. The criminal penalty provided under this subsection may be imposed in addition to a penalty
 23 imposed for another criminal offense arising from the same conduct.

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

26 571.070. 1. A person commits the offense of unlawful possession of a firearm if such
 27 person knowingly has any firearm in his or her possession and:

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

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

33 (3) Such person is subject to an extreme risk order of protection, as defined under section
 34 455.010.

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

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

38 571.107. 1. A concealed carry permit issued pursuant to sections 571.101 to 571.121, a"; and
 39

40 Further amend said bill by amending the title, enacting clause, and intersectional references
 41 accordingly.
 42

43 This amends amendment 0952H01.08H