

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 572, Page 2, Section 171.410, Line 18, by inserting
2 after all of said section and line the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(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 when a child is in the home;

(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.

2. Mutual orders of protection are prohibited unless both parties have properly filed written petitions

1 and proper service has been made in accordance with sections 455.010 to 455.085.

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

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

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

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

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

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

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

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

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

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

23 (10) Order the respondent to pay a reasonable fee for housing and other services that have been
24 provided or that are being provided to the petitioner by a shelter for victims of domestic 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 provided
27 or that are being provided to the petitioner as a result of injuries sustained to the petitioner by an act of
28 domestic violence committed by the respondent.

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

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

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

1 7. The court shall make an order requiring the noncustodial party to pay an amount reasonable and
 2 necessary for the support of any child to whom the party owes a duty of support when no prior order of
 3 support is outstanding and after all relevant factors have been considered, in accordance with Missouri
 4 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 one
 6 hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter 452.

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

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

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

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

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

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

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

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

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

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

42 10. (1) A petition for an extreme risk order of protection shall:

43 (a) Allege that the respondent poses a significant danger of personal injury to himself, herself, any
 44 child in the home that attends an elementary or secondary school in the state, or others by having in his or her
 45 custody or control, purchasing, possessing, or receiving a firearm and shall be accompanied by an affidavit

1 made under oath stating the specific statements, actions, or facts that support a reasonable fear of future
 2 dangerous acts by the respondent;

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

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

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

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

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

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

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

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

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

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

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

34 11. (1) Upon the issuance of any extreme risk order of protection, the court shall order the
 35 respondent to surrender to the respondent's local law enforcement agency all firearms in the respondent's
 36 custody, control, or possession. If the respondent is identified in the petition as licensed to carry a concealed
 37 weapon and carrying a concealed weapon is a condition of the respondent's employment, the court shall
 38 notify the respondent's employer of the existence of the order.

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

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

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

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

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

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

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

19 (6) If a person other than the respondent claims title to any firearms surrendered under subsections
20 10 to 12 of this section and the law enforcement agency determines he or she is the lawful owner of the
21 firearm, the firearm shall be returned to him or her, provided:

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

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

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

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

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

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

42 13. (1) The court that issued the original extreme risk order of protection may, on either its own or
43 the petitioner's motion, renew the extreme risk order of protection if probable cause is shown that the
44 respondent continues to pose a significant risk of personal injury to himself, herself, or others by possessing a
45 firearm. The extreme risk order of protection may be renewed for up to one year from the expiration of the

1 preceding extreme risk order of protection. Written notice of a hearing on the motion to renew an extreme
2 risk order of protection shall be given to the respondent by the party who makes the motion.

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

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

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

13 15. (1) A person who refuses or fails to comply with an extreme risk order of protection shall be
14 subject to the criminal contempt powers of the court and, if found guilty, may be imprisoned for no more than
15 one hundred eighty days or may be fined no more than one thousand dollars, or both. The criminal penalty
16 provided under this subsection may be imposed in addition to a penalty imposed for another criminal offense
17 arising from the same conduct.

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

20 571.070. 1. A person commits the offense of unlawful possession of a firearm if such person
21 knowingly has any firearm in his or her possession and:

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

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

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

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

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

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31
32 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.