

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 468, Page 44, Section 436.338, Line 4, by
2 inserting after all of said section and line the following:

3
4 "455.050. 1. Any full or ex parte order of protection granted pursuant to sections 455.010 to
5 455.085 shall be to protect the petitioner from domestic violence, stalking, or sexual assault and
6 may include such terms as the court reasonably deems necessary to ensure the petitioner's safety,
7 including but not limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

Action Taken _____ Date _____

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

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

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

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

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

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

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

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

20 4. If the court issues, after a hearing for any full order of protection, an order of protection,
21 the court shall also:

22 (1) Prohibit the respondent from knowingly possessing or purchasing any firearm while the
23 order is in effect;

24 (2) Inform the respondent of such prohibition in writing and, if the respondent is present,
25 orally; and

26 (3) Forward the order to the state highway patrol so that the state highway patrol can update
27 the respondent's record in the National Instant Criminal Background Check system (NICS). Upon
28 receiving an order under this subsection, the state highway patrol shall notify the Federal Bureau of
29 Investigation within twenty-four hours.

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

35 ~~[5-]~~ 6. In making an award of custody, the court shall consider all relevant factors including
36 the presumption that the best interests of the child will be served by placing the child in the custody
37 and care of the nonabusive parent, unless there is evidence that both parents have engaged in
38 abusive behavior, in which case the court shall not consider this presumption but may appoint a
39 guardian ad litem or a court-appointed special advocate to represent the children in accordance with
40 chapter 452 and shall consider all other factors in accordance with chapter 452.

41 ~~[6-]~~ 7. The court shall grant to the noncustodial parent rights to visitation with any minor

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

8 ~~[7.]~~ 8. The court shall make an order requiring the noncustodial party to pay an amount
9 reasonable and necessary for the support of any child to whom the party owes a duty of support
10 when no prior order of support is outstanding and after all relevant factors have been considered, in
11 accordance with Missouri supreme court rule 88.01 and chapter 452.

12 ~~[8.]~~ 9. The court may grant a maintenance order to a party for a period of time, not to exceed
13 one hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter
14 452.

15 ~~[9.]~~ 10. (1) The court may, in order to ensure that a petitioner can maintain an existing
16 wireless telephone number or numbers, issue an order, after notice and an opportunity to be heard,
17 directing a wireless service provider to transfer the billing responsibility for and rights to the
18 wireless telephone number or numbers to the petitioner, if the petitioner is not the wireless service
19 accountholder.

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

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

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

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

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

1 number or numbers.

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

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

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

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

15 455.523. 1. Any full order of protection granted under sections 455.500 to 455.538 shall be
16 to protect the victim from domestic violence, stalking, and sexual assault may include such terms as
17 the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:

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

21 (2) Temporarily enjoining the respondent from entering the family home of the victim,
22 except as specifically authorized by the court;

23 (3) Temporarily enjoining the respondent from communicating with the victim in any
24 manner or through any medium, except as specifically authorized by the court.

25 2. If the court issues, after a hearing for any full order of protection, an order of protection,
26 the court shall also:

27 (1) Prohibit the respondent from knowingly possessing or purchasing any firearm while the
28 order is in effect;

29 (2) Inform the respondent of such prohibition in writing and, if the respondent is present,
30 orally; and

31 (3) Forward the order to the state highway patrol so that the state highway patrol can update
32 the respondent's record in the National Instant Criminal Background Check system (NICS). Upon
33 receiving an order under this subsection, the state highway patrol shall notify the Federal Bureau of
34 Investigation within twenty-four hours.

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

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

40 (2) Award visitation;

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

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

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

6 (6) Order the respondent to participate in a court-approved counseling program designed to
7 help stop violent behavior or to treat substance abuse;

8 (7) Order the respondent to pay, to the extent that he or she is able, the costs of his or her
9 treatment, together with the treatment costs incurred by the victim;

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

12 (9) Order a wireless service provider, in accordance with the process, provisions, and
13 requirements set out in subdivisions (1) to (6) of subsection [9] 10 of section 455.050, to transfer the
14 billing responsibility for and rights to the wireless telephone number or numbers of any minor
15 children in the petitioner's care to the petitioner, if the petitioner is not the wireless service
16 accountholder."; and

17
18 Further amend said bill, Page 81, Section 486.1025, Line 10, by inserting after all of said section
19 and line the following:

20
21 "565.076. 1. A person commits the offense of domestic assault in the fourth degree if the
22 act involves a domestic victim, as the term "domestic victim" is defined under section 565.002, and:

23 (1) The person attempts to cause or recklessly causes physical injury, physical pain, or
24 illness to such domestic victim;

25 (2) With criminal negligence the person causes physical injury to such domestic victim by
26 means of a deadly weapon or dangerous instrument;

27 (3) The person purposely places such domestic victim in apprehension of immediate
28 physical injury by any means;

29 (4) The person recklessly engages in conduct which creates a substantial risk of death or
30 serious physical injury to such domestic victim;

31 (5) The person knowingly causes physical contact with such domestic victim knowing he or
32 she will regard the contact as offensive; or

33 (6) The person knowingly attempts to cause or causes the isolation of such domestic victim
34 by unreasonably and substantially restricting or limiting his or her access to other persons,
35 telecommunication devices or transportation for the purpose of isolation.

36 2. The offense of domestic assault in the fourth degree is a class A misdemeanor, unless the
37 person has previously been found guilty of the offense of domestic assault, of any assault offense
38 under this chapter, or of any offense against a domestic victim committed in violation of any county
39 or municipal ordinance in any state, any state law, any federal law, or any military law which if
40 committed in this state two or more times would be a violation of this section, in which case it is a
41 class E felony. The offenses described in this subsection may be against the same domestic victim

1 or against different domestic victims.

2 3. Upon a conviction for the offense of domestic assault in the fourth degree, the court shall
3 forward the record of conviction to the state highway patrol so that the state highway patrol can
4 update the respondent's record in the National Instant Criminal Background Check system (NICS).
5 Upon receiving a record under this subsection, the state highway patrol shall notify the Federal
6 Bureau of Investigation within twenty-four hours.

7 565.227. 1. A person commits the offense of stalking in the second degree if he or she
8 purposely, through his or her course of conduct, disturbs, or follows with the intent to disturb
9 another person.

10 2. This section shall not apply to activities of federal, state, county, or municipal law
11 enforcement officers conducting investigations of any violation of federal, state, county, or
12 municipal law.

13 3. Any law enforcement officer may arrest, without a warrant, any person he or she has
14 probable cause to believe has violated the provisions of this section.

15 4. The offense of stalking in the second degree is a class A misdemeanor, unless the
16 defendant has previously been found guilty of a violation of this section or section 565.225, or of
17 any offense committed in another jurisdiction which, if committed in this state, would be chargeable
18 or indictable as a violation of any offense listed in this section or section 565.225, or unless the
19 victim is intentionally targeted as a law enforcement officer, as defined in section 556.061, or the
20 victim is targeted because he or she is a relative within the second degree of consanguinity or
21 affinity to a law enforcement officer, in which case stalking in the second degree is a class E felony.

22 5. Upon a conviction for the offense of stalking in the second degree, the court shall forward
23 the record of conviction to the state highway patrol so that the state highway patrol can update the
24 respondent's record in the National Instant Criminal Background Check system (NICS). Upon
25 receiving a record under this subsection, the state highway patrol shall notify the Federal Bureau of
26 Investigation within twenty-four hours.

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

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

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

34 (3) Such person has been convicted of a misdemeanor offense of domestic violence under
35 the laws of this state, or of a crime under the laws of any state or of the United States that, if
36 committed in this state, would be a misdemeanor offense of domestic violence; or

37 (4) Such person is subject to an order of protection granted under sections 455.010 to
38 455.095 or sections 455.500 to 455.538 that was issued after a hearing of which the person had
39 actual notice and at which the person had an opportunity to participate or subject to an equivalent
40 order issued under the laws of another state or the United States.

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

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

3 4. As used in this section, the following terms mean:

4 (1) "Family or household member", the same meaning as such term is defined under section
5 455.010;

6 (2) "Misdemeanor offense of domestic violence":

7 (a) Domestic assault in the fourth degree under section 565.076;

8 (b) Stalking in the second degree under section 565.227; or

9 (c) Any misdemeanor offense committed by a family or household member of the victim
10 that involves the use or attempted use of physical force or the threatened use of a deadly weapon.";
11 and

12
13 Further amend said bill, Page 99, Section B, Line 13, by inserting after all of said section and line
14 the following:

15
16 "Section C. Because immediate action is necessary to protect victims of domestic violence
17 from future acts of domestic violence the repeal and reenactment of sections 455.050, 455.523,
18 565.076, 565.227, and 571.070 of this act are deemed necessary for the immediate preservation of
19 the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within
20 the meaning of the constitution, and the repeal and reenactment of sections 455.050, 455.523,
21 565.076, 565.227, and 571.070 of this act shall be in full force and effect upon their passage and
22 approval."

23
24 Further amend said bill by amending the title, enacting clause, and intersectional references
25 accordingly.