

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill
2 Nos. 775, 751 & 640, Page 1, Section A, Line 4, by inserting after said section and line the following:
3

4 "455.073. 1. By July 1, 1996, the supreme court of the state of Missouri shall:

5 (1) Develop and adopt uniform forms for petitions and orders of protection; and

6 (2) Provide the forms to each circuit clerk.

7 2. The following statements shall be printed in bold faced type or in capital letters on the order of
8 protection:

9 (1) "Violation of this order may be punished by confinement in jail for as long as five years and by a
10 fine of as much as five thousand dollars"; and

11 (2) "If so ordered by the court, the respondent is forbidden to enter or stay at the petitioner's
12 residence".

13 3. The form prescribed by the supreme court for the notice of hearing required by subsection 2 of
14 section 455.040 shall list all potential relief that can be granted by the court in any proceeding pursuant to
15 sections 455.010 to 455.085 as described in section 455.050, and shall advise the respondent that such relief
16 may be granted if the court finds for the petitioner, or if the respondent defaults to the petition.

17 4. If a full order of protection is granted, all temporary orders shall continue in the full order of
18 protection and shall remain in full force and effect unless otherwise ordered by the court.

19 5. All orders of protection shall be issued on the form adopted pursuant to subsection 1 of this
20 section.

21 455.075. The court may order a party to pay a reasonable amount to the other party for attorney's
22 fees incurred prior to the commencement of the proceeding ~~[or]~~, throughout the proceeding, and after entry of
23 judgment. The court shall consider all relevant factors, including the financial resources of both parties, and
24 may order that the amount be paid directly to the attorney, who may enforce the order in his name.

25 455.085. 1. When a law enforcement officer has probable cause to believe a party has committed a
26 violation of law amounting to domestic violence, as defined in section 455.010, against a family or household
27 member, the officer may arrest the offending party whether or not the violation occurred in the presence of
28 the arresting officer. When the officer declines to make arrest pursuant to this subsection, the officer shall
29 make a written report of the incident completely describing the offending party, giving the victim's name,
30 time, address, reason why no arrest was made and any other pertinent information. Any law enforcement

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1 officer subsequently called to the same address within a twelve-hour period, who shall find probable cause to
2 believe the same offender has again committed a violation as stated in this subsection against the same or any
3 other family or household member, shall arrest the offending party for this subsequent offense. The primary
4 report of nonarrest in the preceding twelve-hour period may be considered as evidence of the defendant's
5 intent in the violation for which arrest occurred. The refusal of the victim to sign an official complaint
6 against the violator shall not prevent an arrest under this subsection.

7 2. When a law enforcement officer has probable cause to believe that a party, against whom a
8 protective order has been entered and who has notice of such order entered, has committed an act of abuse in
9 violation of such order, the officer shall arrest the offending party-respondent whether or not the violation
10 occurred in the presence of the arresting officer. Refusal of the victim to sign an official complaint against
11 the violator shall not prevent an arrest under this subsection.

12 3. When an officer makes an arrest, the officer is not required to arrest two parties involved in an
13 assault when both parties claim to have been assaulted. The arresting officer shall attempt to identify and
14 shall arrest the party the officer believes is the primary physical aggressor. The term "primary physical
15 aggressor" is defined as the most significant, rather than the first, aggressor. The law enforcement officer
16 shall consider any or all of the following in determining the primary physical aggressor:

- 17 (1) The intent of the law to protect victims from continuing domestic violence;
18 (2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
19 (3) The history of domestic violence between the persons involved.
20

21 No law enforcement officer investigating an incident of domestic violence shall threaten the arrest of all
22 parties for the purpose of discouraging requests or law enforcement intervention by any party. Where
23 complaints are received from two or more opposing parties, the officer shall evaluate each complaint
24 separately to determine whether the officer should seek a warrant for an arrest.

25 4. In an arrest in which a law enforcement officer acted in good faith reliance on this section, the
26 arresting and assisting law enforcement officers and their employing entities and superiors shall be immune
27 from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution.

28 5. When a person against whom an order of protection has been entered fails to surrender custody of
29 minor children to the person to whom custody was awarded in an order of protection, the law enforcement
30 officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party
31 to whom such care and custody was awarded.

32 6. The same procedures, including those designed to protect constitutional rights, shall be applied to
33 the respondent as those applied to any individual detained in police custody.

34 7. A violation of the terms and conditions, with regard to domestic violence, stalking, sexual assault,
35 child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's
36 dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child
37 of the petitioner, of an ex parte order of protection of which the respondent has notice, shall be a class A
38 misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty in any division
39 of the circuit court of violating an ex parte order of protection or a full order of protection within five years of

1 the date of the subsequent violation, in which case the subsequent violation shall be a class E felony.
2 Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury
3 prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or
4 finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other
5 disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare
6 the punishment as a part of its verdict.

7 8. A violation of the terms and conditions, with regard to domestic violence, stalking, sexual assault,
8 child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's
9 dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child
10 of the petitioner, of a full order of protection shall be a class A misdemeanor, unless the respondent has
11 previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex
12 parte order of protection or a full order of protection within five years of the date of the subsequent violation,
13 in which case the subsequent violation shall be a class E felony. Evidence of prior pleas of guilty or findings
14 of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury.
15 If the court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the
16 court shall decide the extent or duration of the sentence or other disposition and shall not instruct the jury as
17 to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict. For
18 the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is
19 deemed to have notice of an order of protection if:

20 (1) The law enforcement officer responding to a call of a reported incident of domestic violence,
21 stalking, sexual assault, or violation of an order of protection presented a copy of the order of protection to
22 the respondent; or

23 (2) Notice is given by actual communication to the respondent in a manner reasonably likely to
24 advise the respondent.

25 9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed tampering with a
26 witness or victim tampering under section 575.270.

27 10. Nothing in this section shall be interpreted as creating a private cause of action for damages to
28 enforce the provisions set forth herein."; and
29

30 Further amend said bill and page, Section 476.418, Lines 1-11, by deleting said lines and inserting in lieu
31 thereof the following:
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33 "476.418. No person shall disclose a party's Social Security number or date of birth, which was
34 obtained from the filing information sheet required by Missouri supreme court operating rule 4.07.1, unless
35 the disclosure is authorized by law."; and
36

37 Further amend said bill, Page 2, Section 491.015, Line 31, by inserting after said section and line the
38 following:
39

40 "546.262. A court shall not compel a victim or member of the victim's family testifying in a criminal
41 proceeding for a violation of sections 565.072 to 565.076 to disclose a residential address or place of

1 employment on the record in open court unless the court finds that disclosure of the address or place of
 2 employment is necessary.

3 546.263. 1. A person may testify by video conference at a civil trial involving an offense under
 4 sections 565.072 to 565.076 if the person testifying is the victim of the offense. The circuit and associate
 5 circuit court judges for each circuit shall develop local rules and instructions for appearances by video
 6 conference permitted under this subsection, which shall be posted on the circuit court's internet website.

7 2. The circuit and associate circuit court judges for each circuit shall provide, and post on the circuit
 8 court's internet website, a telephone number for the public to call for assistance regarding appearances by
 9 video conference.

10 556.046. 1. A person may be convicted of an offense included in an offense charged in the
 11 indictment or information. An offense is so included when:

12 (1) It is established by proof of the same or less than all the facts required to establish the
 13 commission of the offense charged; or

14 (2) It is specifically denominated by statute as a lesser degree of the offense charged; or

15 (3) It consists of an attempt to commit the offense charged or to commit an offense otherwise
 16 included therein.

17 2. The court shall not be obligated to charge the jury with respect to an included offense unless there
 18 is a rational basis for a verdict acquitting the person of the offense charged and convicting him or her of the
 19 included offense. An offense is charged for purposes of this section if:

20 (1) It is in an indictment or information; or

21 (2) It is an offense submitted to the jury because there is a rational basis for a verdict acquitting the
 22 person of the offense charged and convicting the person of the included offense.

23 3. The court shall be obligated to instruct the jury with respect to a particular included offense only if
 24 the instruction is requested and there is a rational basis in the evidence for acquitting the person of the
 25 immediately higher included offense and [there is a basis in the evidence for] convicting the person of that
 26 particular included offense.

27 566.010. As used in this chapter and chapter 568, the following terms mean:

28 (1) "Aggravated sexual offense", any sexual offense, in the course of which, the actor:

29 (a) Inflicts serious physical injury on the victim;

30 (b) Displays a deadly weapon or dangerous instrument in a threatening manner;

31 (c) Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person;

32 (d) Had previously been found guilty of an offense under this chapter or under section 573.200, child
 33 used in sexual performance; section 573.205, promoting sexual performance by a child; section 573.023,
 34 sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section
 35 573.035, promoting child pornography in the second degree; section 573.037, possession of child
 36 pornography; or section 573.040, furnishing pornographic materials to minors; or has previously been found
 37 guilty of an offense in another jurisdiction which would constitute an offense under this chapter or said
 38 sections;

39 (e) Commits the offense as part of an act or series of acts performed by two or more persons as part

1 of an established or prescribed pattern of activity; or

2 (f) Engages in the act that constitutes the offense with a person the actor knows to be, without regard
3 to legitimacy, the actor's:

4 a. Ancestor or descendant by blood or adoption;

5 b. Stepchild while the marriage creating that relationship exists;

6 c. Brother or sister of the whole or half blood; or

7 d. Uncle, aunt, nephew, or niece of the whole blood;

8 (2) "Commercial sex act", any sex act on account of which anything of value is given to or received
9 by any person;

10 (3) "Deviate sexual intercourse", any act involving the genitals of one person and the hand, mouth,
11 tongue, or anus of another person or a sexual act involving the penetration, however slight, of the penis,
12 female genitalia, or the anus by a finger, instrument or object done for the purpose of arousing or gratifying
13 the sexual desire of any person or for the purpose of terrorizing the victim;

14 (4) "Forced labor", a condition of servitude induced by means of:

15 (a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person
16 does not enter into or continue the servitude, such person or another person will suffer substantial bodily
17 harm or physical restraint; or

18 (b) The abuse or threatened abuse of the legal process;

19 (5) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;

20 (6) "Sexual contact", any touching of another person with the genitals or any touching of the genitals
21 or anus of another person, or the breast of a female person, or such touching through the clothing, or causing
22 semen, seminal fluid, or other ejaculate to come into contact with another person, for the purpose of arousing
23 or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;

24 (7) "Sexual intercourse", any penetration, however slight, of the female genitalia by the penis.

25 566.086. 1. A person commits the offense of sexual contact with a student if he or she has sexual
26 contact with a student of the school and is:

27 (1) A teacher, as that term is defined in subdivisions (4), (5), and (7) of section 168.104;

28 (2) A student teacher; [Ø]

29 (3) An employee of the school; [Ø]

30 (4) A volunteer of the school or of an organization working with the school on a project or program
31 who is not a student at the school; [Ø]

32 (5) An elected or appointed official of the school district; [Ø]

33 (6) A person employed by an entity that contracts with the school or school district to provide
34 services; or

35 (7) A coach, assistant coach, director, or other adult with a school-aged team, club, or ensemble,
36 regardless of whether such team, club, or ensemble is connected to a school or scholastic association. For
37 purposes of this subdivision, "school-aged team, club, or ensemble" means any group organized for
38 individual or group competition for the performance of sports activities or any group organized for individual
39 or group presentation for fine or performing arts, by any child under eighteen years of age.

1 2. For the purposes of this section, "school" shall mean any public or private school in this state
2 serving kindergarten through grade twelve or any school bus used by the school district.

3 3. The offense of sexual contact with a student is a class E felony.

4 4. It is not a defense to prosecution for a violation of this section that the student consented to the
5 sexual contact."; and

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7 Further amend said bill, Page 12, Section 595.226, Line 28, by inserting after said section and line the
8 following:

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10 "595.320. If a judge orders a person who has been convicted of an offense under sections 565.072 to
11 565.076 to attend any batterer intervention program, as defined in section 455.549, the person shall be
12 financially responsible for any costs associated with attending such class."; and

13
14 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.