

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 1108 & 1181, Page 17, Section 307.175,
2 Line 54, by 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 including violence against a pet;

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

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

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

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

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

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

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

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

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

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

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

Action Taken _____ Date _____

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 petitioner if the respondent is found to have a duty to support the
5 petitioner or other dependent household members;

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

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

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

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

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

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

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

22 (13) Award possession and care of any pet, along with any moneys necessary to cover
23 medical costs that may have resulted from abuse of the pet.

24 4. If, after a hearing for any full order of protection, the court issues an order of protection,
25 the court may also:

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

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

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

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

1 ~~[5-]~~ 6. In making an award of custody, the court shall consider all relevant factors including
2 the presumption that the best interests of the child will be served by placing the child in the custody
3 and care of the nonabusive parent, unless there is evidence that both parents have engaged in
4 abusive behavior, in which case the court shall not consider this presumption but may appoint a
5 guardian ad litem or a court-appointed special advocate to represent the children in accordance with
6 chapter 452 and shall consider all other factors in accordance with chapter 452.

7 ~~[6-]~~ 7. The court shall grant to the noncustodial parent rights to visitation with any minor
8 child born to or adopted by the parties, unless the court finds, after hearing, that visitation would
9 endanger the child's physical health, impair the child's emotional development or would otherwise
10 conflict with the best interests of the child, or that no visitation can be arranged which would
11 sufficiently protect the custodial parent from further domestic violence. The court may appoint a
12 guardian ad litem or court-appointed special advocate to represent the minor child in accordance
13 with chapter 452 whenever the custodial parent alleges that visitation with the noncustodial parent
14 will damage the minor child.

15 ~~[7-]~~ 8. The court shall make an order requiring the noncustodial party to pay an amount
16 reasonable and necessary for the support of any child to whom the party owes a duty of support
17 when no prior order of support is outstanding and after all relevant factors have been considered, in
18 accordance with Missouri supreme court rule 88.01 and chapter 452.

19 ~~[8-]~~ 9. The court may grant a maintenance order to a party for a period of time, not to exceed
20 one hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter
21 452.

22 ~~[9-]~~ 10. (1) The court may, in order to ensure that a petitioner can maintain an existing
23 wireless telephone number or numbers, issue an order, after notice and an opportunity to be heard,
24 directing a wireless service provider to transfer the billing responsibility for and rights to the
25 wireless telephone number or numbers to the petitioner, if the petitioner is not the wireless service
26 accountholder.

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

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

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

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

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

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

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

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

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

26 455.523. 1. Any full order of protection granted under sections 455.500 to 455.538 shall be
27 to protect the victim from domestic violence, including danger to the child's pet, stalking, and sexual
28 assault may include such terms as the court reasonably deems necessary to ensure the petitioner's
29 safety, including but not limited to:

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

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

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

37 2. If, after a hearing for any full order of protection, the court issues an order of protection,
38 the court may also:

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

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

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

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

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

14 (2) Award visitation;

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

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

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

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

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

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

27 (9) Order a wireless service provider, in accordance with the process, provisions, and
28 requirements set out in subdivisions (1) to (6) of subsection 9 of section 455.050, to transfer the
29 billing responsibility for and rights to the wireless telephone number or numbers of any minor
30 children in the petitioner's care to the petitioner, if the petitioner is not the wireless service
31 accountholder;

32 (10) Award possession and care of any pet, along with any moneys necessary to cover
33 medical costs that may have resulted from abuse of the pet."; and

34
35 Further amend said bill, Page 23, Section 558.031, Line 41, by inserting after all of said section and
36 line the following:

37
38 "565.076. 1. A person commits the offense of domestic assault in the fourth degree if the
39 act involves a domestic victim, as the term "domestic victim" is defined under section 565.002, and:

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

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

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

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

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

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

14 2. The offense of domestic assault in the fourth degree is a class A misdemeanor, unless the
15 person has previously been found guilty of the offense of domestic assault, of any assault offense
16 under this chapter, or of any offense against a domestic victim committed in violation of any county
17 or municipal ordinance in any state, any state law, any federal law, or any military law which if
18 committed in this state two or more times would be a violation of this section, in which case it is a
19 class E felony. The offenses described in this subsection may be against the same domestic victim
20 or against different domestic victims.

21 3. Upon a person's conviction for the offense of domestic assault in the fourth degree, the
22 court shall forward the record of conviction to the Missouri state highway patrol so that the Missouri
23 state highway patrol can update the respondent's record in the National Instant Criminal Background
24 Check System (NICS). Upon receiving a record under this subsection, the Missouri state highway
25 patrol shall notify the Federal Bureau of Investigation within twenty-four hours.

26 565.227. 1. A person commits the offense of stalking in the second degree if he or she
27 purposely, through his or her course of conduct, disturbs, or follows with the intent to disturb
28 another person.

29 2. This section shall not apply to activities of federal, state, county, or municipal law
30 enforcement officers conducting investigations of any violation of federal, state, county, or
31 municipal law.

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

34 4. The offense of stalking in the second degree is a class A misdemeanor, unless the
35 defendant has previously been found guilty of a violation of this section or section 565.225, or of
36 any offense committed in another jurisdiction which, if committed in this state, would be chargeable
37 or indictable as a violation of any offense listed in this section or section 565.225, or unless the
38 victim is intentionally targeted as a law enforcement officer, as defined in section 556.061, or the

1 victim is targeted because he or she is a relative within the second degree of consanguinity or
 2 affinity to a law enforcement officer, in which case stalking in the second degree is a class E felony.

3 5. Upon a person's conviction for the offense of stalking in the second degree, the court shall
 4 forward the record of conviction to the Missouri state highway patrol so that the Missouri state
 5 highway patrol can update the respondent's record in the National Instant Criminal Background
 6 Check System (NICS). Upon receiving a record under this subsection, the Missouri state highway
 7 patrol shall notify the Federal Bureau of Investigation within twenty-four hours."; and

8
 9 Further amend said bill, Page 32, Section 570.212, Line 11, by inserting after all of said section and
 10 line the following:

11
 12 "571.070. 1. A person commits the offense of unlawful possession of a firearm if such
 13 person knowingly has any firearm in his or her possession and:

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

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

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

22 (4) Such person is subject to an order of protection granted under sections 455.010 to
 23 455.095 or sections 455.500 to 455.538 that was issued after a hearing of which the person had
 24 actual notice and at which the person had an opportunity to participate or such person is subject to
 25 an equivalent order issued under the laws of another state or the United States.

26 2. Unlawful possession of a firearm is a class D felony, unless a person has been convicted
 27 of a dangerous felony as defined in section 556.061, in which case it is a class C felony.

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

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

31 (1) "Family or household member", the same meaning as such term is defined under section
 32 455.010;

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

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

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

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

38 and

39
 40 Further amend said bill by amending the title, enacting clause, and intersectional references
 41 accordingly.