

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 1706 & 1539, Page 10, Section 337.618,  
2 Line 16, by inserting after 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 the court issues, after a hearing for any full order of protection, an order of protection,  
25 the court shall 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 the court issues, after a hearing for any full order of protection, an order of protection,  
 38 the court shall 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] 10 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 12, Section 492.304, Line 42, by inserting after said section and line  
36 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 offender'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 offender's record in the National Instant Criminal Background Check  
 6 System (NICS). Upon receiving a record under this subsection, the Missouri state highway patrol  
 7 shall notify the Federal Bureau of Investigation within twenty-four hours."; and

8  
 9 Further amend said bill and page, Section 567.030, Line 20, by inserting after said section and line  
 10 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; [œ]

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. (1) Except as otherwise provided in this subsection, the provisions of subdivision (1) of  
 29 subsection 1 of this section shall not apply to the possession of an antique firearm.

30 (2) The exception under subdivision (1) of this subsection allowing for the possession of an  
 31 antique firearm shall not apply if the felony described under subdivision (1) of subsection 1 of this  
 32 section is a felony offense of domestic violence.

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

34 (1) "Family" or "household member", the same meaning given to the terms in section  
 35 455.010;

36 (2) "Felony offense of domestic violence":

37 (a) Domestic assault in the first degree under section 565.072;

38 (b) Domestic assault in the second degree under section 565.073;

39 (c) Domestic assault in the third degree under section 565.074;

1           (d) Stalking in the first degree under section 565.225; or

2           (e) Any felony offense committed by a family or household member of the victim that  
3 involves the use or attempted use of physical force or the threatened use of a deadly weapon;

4           (3) "Misdemeanor offense of domestic violence":

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

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

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

9 and

10  
11 Further amend said bill by amending the title, enacting clause, and intersectional references  
12 accordingly.